App. F. IX-4

Previous References 1927-28 (Gen)

File No. 19-27

Serial Nos. 1-11

Later References P ✓

General and Revenue Secretariat.

Serial Nos. Eleven

Part B for March 1931

SUBJECT.

Palace defalcation Case

D.7 Revt
31-3-31

1)

GENERAL AND REVENUE SECRETARIAT.

NOTES.

Cases File No.

FILE HEADING.

Palace Defalcation—Case

From The Deputy Comr. Mysore

No. GC 52/27 Dated 19-9-27 & 21-9-27 Received 21/9/27 24-9-27

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

States that- accused 2 and 3 in C.C. 128/27- on the file of Cet Magistrate Mysore have preferred petitions before Sessions Judge for releasing on bail and that- P.P. has been instructed to conduct the prosecution by him which he requests may be approved

NOTES AND ORDERS.

Subd for perusal the petitions were posted to 22.9.27 and the P.P. Mysore has been requested to oppose the applications and requests that- this may be approved.

D.C.

Mear
24.9.27

There are no previous papers on the subject in this branch. The D.P. Section may perhaps be requested to have them for facility of putting up the file

P.P. Section
for reference
the subject

24/9

NOTES—First Sheet.

WD 1881—GPB—30,000—1-8-21

P.P. Section) 28/9

28/9

3

Subd for orders

The Chief Secretary

Secretary to

General and Revenue Secretariat. | File No. 145 P of 1927

CHIEF SECRET. 1 OCT. 1927

Serial No.

4 No papers in C/B

1/10/27

Subd.

1/10

5 Subd.

No key cases are available on the subject in P.P nor in C.B D.C. Mysore requests that his action in instructing P.P. Mysore to conduct prosecution in the Palace Firearms defalcation cases before the Magistrate may be approved. P.P has also been requested by him to oppose bail applications on behalf of accused 2 & 3 in C.C 128 of 27-28 before the Sessions. Yr orders whether D.C's action may be approved as requested

4/10/27.

6 D.C's action may perhaps be approved.

7 may be appd

8

8 7/10

7-10

9 Draft Subd for approval.

8/10/27

10

25 1745
420

3)

App. F. III—2]

General and Revenu Secretariat. | File No. | of 192

Serial No.

2

Mysore Camp dtd 10/10/27.

From the D.G Police no RoC 580/27 forwards copies of Judgment of Special First Class Magistrate Mysore in the Palace Treasury Defalcation Cases sentencing all the three accused

11 Subd for perusal

Melle 25/2/28 Dy 25/2

Dy) 28/2

From the D.M Mysore No 58 d 22.2.28 forwards copies of judgments in the Palace Treasury Defalcation Cases

From the D.M. Mysore no 9,78-87. d 25-2-1928. intimates that the 3rd accused in Pala Treasury Defalcation cases has appealed before Sessions and that the case is posted to 23-3-1928

12 Subd for perusal of judgments and the further letter of D.M intimating that 3rd accused has appealed

Melle 1/3/28 mr

Dy) 1/3

7381 9/3

13 Govt Advocate may be engaged to argue the appeal Rs for may be fixed at Rs 50/- per day in addition to his T.A

Appeal be heard 8/3

Chief Sec 8/3

Dy 9.3

Dy. Secretary 8/3

Chief Sec 8/3

Dy 9.3

Govt Advocate may be engaged to argue the appeal Rs for may be fixed at Rs 50/- per day in addition to his T.A

4629
4239

4)

App. F. III—2]

General and Revenue Secretariat. | File No. | of 192

Serial No.

14) draft sealed
Mecca
12/3/28
Seey)

In 143.
appd
DS
18/3
141

To
The Govt Advocate
No P 5351 D/14.3.28
Requests to arrue the appeals before the Sessions Judge on behalf of Govt

Lr/B Mecca 20/3/28

Letter D.O. no nil d 18-3-28 from S.A to First Member of Council. Stating that he should be paid a fee of at least 100 Rs a day for the case and that the fixed fee is unreasonable -

15) Orders of Member on P.U.D
"Law Secll. 100 Rs a day may be paid if that was the rate paid for the other cases as stated".
HH K.C.
19.3

Orders of Secy - 16)
"Verify sec. B.IV
21.3.28.

Law
23/3/28.

NOTE—Contn. sheet

17) Secll. C.B. Branch may kindly peruse S.D.S. dy and case file. Other available collected have been placed in the file
Mecca
26/3/28 returned 28/3/28
WD 0324—GPB—60,000—24-5-27 · Ref. para 3 of P.U.D.
To the Supdt. C.B. for info & compliance
Mecca
2/4/28 2/4

5)

App. F. III—2]

General and Revenue Secretariat. | File No. 4629/7 of 192

Serial No.

18 C.B. 29-23-(Pts 10-13) } These Collections
L.C.S. 29-23-(Pts 37+38) } may be obtained
from the Records
VB
2/4
Pro Re) initials illegible

Laws 4/4

19) Subd The Govt Advocate has been paid at the rate of 100 Rs a day in the case relating to 6th Installation (Flag G) before the Commissioner Sivasamboo Engineer
In the same case before the Committing Magistrate, too, 100 Rs a day has been paid. Flag N+X
The Govt Advocate claims 100 Rs a day for this case also. This is for orders - Ref. paras 15, and 16 above
bbas
9/4/28
AR
12/4

Secy) VB 12/4

A number of collections are not available which are relevant to this case. Such collections may be removed from the file.
12/4 Collections removed
bbas
11/4
The file re 6th Installation case in Sessions court is not readily available - attempts was made to obtain it.
bbas
12.4.28.

20) The nature of the cases is different

21) The work of a Counsel in Conducting a case after a deep study is different from arguing an appeal on the materials on record

22) In this case he has only to support the conviction - His fee may be fixed at Rs 75/- per day

8546
16/4

23) As decided by Secy Rs 100/- may be paid
VB 17/4
1st item V

NOTE—Contn. sheet.

14-4
V

WD 0324—GPB—60,000—24-5-27

5124 67

App. F. [III—2]

General and Revenue Secretariat. | File No. of 192

Serial No.

From the P.Pr, Mysore Lr no. S-28 of 27-28 d 12-4-28 states that in a number cases appearing in support of convictions in all important criminal appeal and protests that the orders to Govt Advocates to appear in the Sessions, tend to bring down the prestige in the eyes of the bar.

From the Dy Comr Mysore, T.C. 71/27-28 d 9-3-1928 forwards representation of P.Pr Mysore for special remuneration in Palace Defalcation Cases

24) Submitted for perusal.

The points for orders are

i whether the protest of P.Pr should be accepted and he appointed to appear with G.A before the Sessions in the Palace Defalcation appeals -

P.u D1

ii whether the remuneration of P.Pr in the Palace Defalcation Case at 25 Rs a day as recommended by D.C. is acceptable to Govt -

P.u D11

iii whether draft proposing G. A's fee at 100 Rs a day in the appeal may issue.

typist Please type P.u D 11 and Hon T. for letter - for D. 1937.

Mack 29/4/28 for 2/4

(Secy) 2/4

NOTE—Contn. sheet.

WD 0324—GPB—60,000—24-5-27

General and Revenue Secretariat. | File No. of 192

Serial No.

29/ In appreciation of his services he may be appointed as counsel to argue the appeal before the Sessions Judge along with G. A. as agreed to

8724/23/4

Attorney

8/
23.4.28

30/ I agree re Palace Case. Re Treasury is there any precedent for P.P. being paid. to appear before his own Sessions, or is this for Magistrate Court?

Is there no rule in such instances in such unparalled case formulated; or is this not desirable?

Lee 24/4

31/ Re appl in the Sessions Court no orders seem necessary as we have ahead told him he can appear as junior. (Dt Magte is not very enthusiastic!)

Lee 24/4/28

24.4.

27/4

32/ Draft of Proceedings sanctioning a fee of Rs 30/- a day for 57 days in the Palace case is herewith submitted for approval.

33/ Re: Palace Treasury Case, the P.P for ~~Sessions the case~~ now claims special remuneration for work done ~~for~~ in the Sessions Court and not in the magistrate's Court. orders are solicited whether any special remuneration is due for this work also. No precedents are available on this point.

26.4.28

34/ No letter seems to have been written to the P.P for permitting him to appear as junior in the appeal in the Palace case before the Sessions Judge, Lyallpur. May a draft be put up?

NOTE—Contn. sheet.

30/4/28

35/ It is also for orders if the Dy Govt Advocate fixing the fee for arguing the appeal at Rs 1000/- may

5726

9

General and Revenue Secretariat. | File No. | of 192

Serial No. 36

Refer para 30. – Draft I may issue.
Draft II will be revised and resubmitted after orders are passed as to whether the remuneration recommended by the Sc. Magte to the Public Prosecutor for conducting the prosecution in the Salem Dig. defalcation case before the Sessions Court may be sanctioned as a special case.

Draft 2 now Subd refers to Sp Magte's Comts. This revised draft as no 4?

Refer para 31. – Draft III is put up, as there is nothing on the file to show that the public Pros^r has already been told to appear with the Govt. Advocate in the appeal in the Salem Dig. defalcation case. It is not known whether the appeal is still pending – If the appeal has been disposed of, there is no need to issue this draft.

Mr 30/4

Secy)

38 Drafts Nos 1, 2, & 3 may be issued. No remuneration is necessary for appearance before the Sessions Court.

Writer
In his absence
Secy

Secy 1/5

8996/25 1/5

39 Appd. in above Special Rem^n claimed. No Rept need.

Afterwards note

for Sessions

8/5 1.5. Mr

3/5

Mr

Draft I + II + remittance 2

NOTE—Contn. sheet

ISSUED

WD 0324—GPB—60,000—24-5-27

5498 11)

App. F. III—2]

General and Revenue Secretariat. | File No. of 192

Serial No.

To, The Public Prosecutor, mysore
P 6845 Dated 9-4-28
Informing him that he may
appear with the Govt advocate in
the Palace Try defalcation appeals in
the Sessions Court.

From Public Prosecutor, mysore
Letter No: M. 1750 dt 27-4-28 Dated 9/5/28

45) Prays for early favourable orders regarding the special remuneration claimed by him for conducting the Talur Treasury defalcation Cases in the Sessions Court, mysore.

Under rules 40 and 55 of the Rules for the Conduct of legal affairs of Govt, the P. Pr is not entitled to any remuneration for conducting Prosecutions before Sessions Courts. The P. Pr admits this in his letter dated 25/29 th Feb 1928.

Flag T.

As noted in para 33 above no precedents for payments made to P. Pr under such Circumstances as in this case, are available.

Submitted for orders

9464/14/5

Done 11.5.28 my initials

Secy) 11/5

46) Refer para 39 supra

1st Mem 12/5

47) Govt cannot sanction special remuneration for ones own work. This may lead to such claims by other Public Prosecutors and Govt Pleaders.

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

for another old claim & he thanked the Govt

15/5 15/5 15/5

Secy 15/5

Govt

Govt

Govt

5601
5 Li

12

General and Revenue Secretariat. | File No. of 192

Serial No.

Draft of a letter to P. Pr. Submitted
MP
16/5/28

Usave
M
6/5

To the Public Prosecutor
Rop 6943 Dy 17-5-28
States that Govt regret that no
Special remuneration can be granted.

From the Public Prosecutor, Mysore
No: 573 of 27. 28 requesting that his bills
for attending to the Palace Trg Cases as well
as the Govt order sanctioning the payment
be sent to the Comptroller for preaudit-

(48) The Bill is ~~non~~ flagged T. The order of Govt
sanctioning the payment of Rs 30 per day for
the 57 days was sent to the Comptroller
as per draft II (Flag T) It is seen that the
Bill of the P. Pr is not countersigned by the Spl
magistrate, but the Deputy Comr, Mysore who
happened to be the Spl: magistrate has forwarded
the bill with the ~~seen~~ covering letter recommending
payment (Flag S). The Bill may be sent back
Submitted to the P. Pr ~~for~~ getting the Countersignature
MP of the Spl magistrate & a copy of the letter
18/5/28 may be sent to the Comptroller.
Please put up draft accdy.
M
6/5

NOTE—Contn. sheet

Draft put up
MP
19/5

WD 0324—GPB—60,000—24-5-28

fresh draft after direction submitted MP 21/5/28

General and Revenue Secretariat.	File No. of 192

Serial No.

P. 7009 dated 23.5.28

70, The Public Prosecutor, Mysore informing him that as no bills is received but only a memo, he may prepare a fresh bill after countersigning of the Dy Secy in charge Comptroller's pre-audit & payment.

From P.Pr Mysore No. 582 of 27.28 dated 24.5.28, - A reminder praying for a reply to his letter dated 14-28

49) Since a reply has already been sent— this may be filed

Submitted
Dy
22/5/28

Letter No 606 of 27 & dated 6.6.28 from P.Pr, Mysore requesting that the memo showing dates of attendance etc sent by him while claiming remuneration for services rendered in the Palace Try defalcation cases, may now be returned after noting therein the amount of remuneration sanctioned by Govt, so that he may send the same to the Comptroller.

50) The Comptroller, it seems, does not call for bills intended for pre-audit and as such the P.Pr requests for the return of the memo sent by him with a note

flag I

NOTE—Contn. sheet

Palace defalcation case 14)

App: F 11—27

General and Revenue Secretariat.

Law File No. 19 of 192)

Serial No.

Memo in of the special recommendation Solicitor
by Govt - If approved, this may be done
Submitted
DDP
14.6.28

(51) of the Public Prosecutor had taken
the instructions issued to him in the three letters
no 7009 dy 28/5/28, then the Complainant would not
probably have raised any objections & P.P
may be asked to report whether such instructions
were given effect to by him

Law 14/6/28 (52) Another letter about Tuns Smith
was received today from the P.P
Please put it up -
14/6

The letter
received on 11/6
herewith submitted
Submitted
DDP
14/6/28

Law

Issue draft putup
13/6

Letter to PPr, Mysore P 7270/Law
Send 1/ serving him the memo.

Ans
DDP
18/6/28

NOTE—Contn. Sheet.

WD 01714—GPR—30 000—18.4.28

15

App. F. III—2]

General and Revenue Secretariat. | File No. | of 192

Serial No.

Letter for J.G.P. dated 28th June 1928
No 3976/S4

(52) Reports the result of the appeals in the Palace Tiny defalcation case,
In the case of the 1st accused Ramiah the imprisonment of 4 years was reduced to one year the R.I. awarded to 2nd Subbamma was commuted to simple & the sentence of the 3rd accused C.S. Lakshminarayana Setti was confirmed
Submitted for perusal

4/7/28 Lacy)
3rd Mem.

(54) accepts the judgment in appeal
by the Madras
3.7.28
3.7
3rd Mem.
17

Draft portal
4/7/28
4/7

To the Govt Advocate
No P 115 dt 5.7.28
Calls for a Copy of the judgment in the Case

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

244 124

Palace defalcation Case 16)

App. F. III—2)

General and Revenue Secretariat.

Law File No. 19 of 192).

Serial No.

55) Letter No: 150 of 6th July 1928 from the Govt advocate stating that he has applied for a copy of the proft in the Palace Try defalcation appeal + that he would send the same as soon as it is obtained Submitted for perusal.

Dpy 10/7/28 Sd 10/7

10/7

Secs Dpy 11/7/28 Laws 10/7

Letter No: 25 dated 12th July 1928 from the Govt Advocate

(56) Reports the result of the appeal in the Palace defalcation appeals and says that the copy of the Judgment would be sent as soon as it is received herein -

Dpy 13/7 Sd 13/7

13/7

Letter No: 33 dated 13th July 1928 from advocate forwarding a bill for Rs1300/- for Professional services rendered in the Palace Try defalcation Cases -

(57) The G.A. has appeared ~~for~~ on 13 days in this Case and claims a sum of Rs1300/- at the rate of Rs100/- per day which is the rate sanctioned by Government, vide No: P. 6809/Law 19-27 dated 7th May 1928 (Flag T). The bill is in order & Countersigned by the Sessions Judge & may be sanctioned Draft G.O. herewith put up

646 14/7

NOTE—Contn. Sheet.

Dpy 14/7/28

WD 01714—GPB—30,000—18-4-28

Secretary (Number) 14/7

14/7 Secretary

Palace Tpy defalcation Case 417

366

17)

App. F. III—2]

General and Revenue Secretariat. | File No. | of 192

Serial No.	
	from the G.A
	Letter No 47 dated 20th July 1928 forwarding his T.A bill for journey to Mysore & back in connection with the Palace Tpy defalcation cases.
(58)	The T.A bills are submitted for countersignature of the Secretary as required in Art: 641(3) of the M.S.R.
DOP 21.7.28	Draft of a letter to G.A returning the bills also put up.
Secy (59)	Sgnd & dispd 24.7
	To the Govt Advocate No P S 99(2) dated 24th July 1928 forwards his two T.A bills.
	Letter No: 57 dated 20/24 July 1928 from G.A forwarding T.A bill of his establishment for June 1928 for countersignature.
(60)	The T.A bill of the G.A's clerk for the journey to Mysore & back in June in connection with the Palace Tpy defalcation case is sent for Countersignature of Secy. Draft of a letter returning the bill after Countersignature is put up.
DOP 25/7/28	Secy) 25/7
	26/7

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

Palace Treasury defalcation case

606 / 41 / 18

App. F. III—2]

General and Revenue Secretariat. File No. 19 of 192 . 9.

Serial No.

To The Govt Advocate
No 701 Dy 28.7.28.
Returns the bill duly countersigned

Sus
Bom
3/8/28

Letter from Govt Adv to ooo dated 6th august 1928
(61) Hon'ble A resubmits his T.A. bill for June 1928 and requests the sanction of Govt for his halt at Mysore for more than 10 days

Draft G.O put up for approval.

Bom
8/8
Sec'y)
3rd Mem^r

8/8
8/8
7.

11/8
8/8
11.8

To The Govt Advocate.
The Comptroller
Bom 1096) Dy 14-8-28
Sanctions the halt at Mysore for 14 days made by the Govt Advocate in connection with the Palace Treasury defalcation appeals before the Hon'ble Mysore Division

Sus
Bom
27/8/28

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

3983/P/29

App. F. III—2]

General and Revenue Secretariat.

File No. 1215 of 192

Serial No.

Relating to the action taken on the remarks made about the officers in the judgment and orders passed thereon

Pages 19 to 38 And the Correspondence pertaining to these pages are retained in the C.B. and the rest returned to the Protection Branch.

CBA
17/2

The papers retained in C.B. are also sent herewith (linked) for reference & return

~~after Keeping~~ — CB. 114-27-18.
B. Febl 1930

CBA
17/2

The Sapd (Pohn. Br. with Comps)

For perusal of the linked file before its return to the CB

Asst
17/2

Secy)

Dy
17/2

M
17/2

Dy
17/2

To the Cayetor. Havande taken the linked file & returned this

Asst
25/2

The linked file (CB 114-27-18) is retained in CB and this file is returned to the Protection Branch.

CBA
25/2

CBA

NOTE—Contn. sheet.

WD 166—GPB—30,000—26-7-29.

B
27/2/30

Pohn Br
27/2

20

Received [illegible]

the [illegible]

this [illegible]

Paris
17/3/31

Lewis

The papers relate to
the palace de famille a bon
Cne of approved list
will be fired

TSD
10/

B

1671/927

No. G1. 52/27.

Office of the Deputy Commissioner,
Mysore District.
Dated, Mysore, 19th September 1927.

From

A.V. Ramanathan, Esq., B.A., Law 9-27
Deputy Commissioner, Mysore District.

To

B. Nagappa, Esq., Bar-at-Law.,
Legal Remembrancer and Secretary
to the Government of Mysore,
Law Department, Bangalore.

Sir,

I have the honor to state that accused 2 and 3 in C.C.128 of 1927-28 (Palace Defalcation Case) on the file of the City Magistrate, Mysore, have presented petitions in Mis. 2 and 3 of 27-28 before the Sessions Judge of Mysore Division for releasing them on bail pending further progress in the case and the petitions are posted to 22nd September 1927 for hearing and the Public Prosecutor, Mysore Division, has been requested by me to oppose both the applications for bail before the Sessions Judge.

I have the honor to be,

Sir,

Your most obedient servant

For District Magistrate,

Mysore District.

(Absent from Head Quarters)

V 1743 P 87

No. G1.52/27.

Office of the Deputy Commissioner,
Mysore District,

Dated Mysore, 21st September 1927.

FROM A.V. Ramanathan Esq., B.A.,
THE DEPUTY COMMISSIONER,
MYSORE DISTRICT.

TO B. Nagappa, Esq., Bar-at-law.,
~~Legislative~~ Legal Rememberance and Secretary to
Government, Law Department, Bangalore.

Sir,

I have the honour to state that the Public Prosecutor Mysore Division has been instructed by me to conduct the prosecution in the Palace Treasury Defalcation cases before the Magistrate as they are very important cases. I request that my action may kindly be approved.

I have the honour to be,

Sir,

Your most obedient servant,

District Magistrate,
Mysore District.

S.G.

3

APP. F. VI. Gl.]

SUBJECT.....

.....

.....

Section Law
File No. GL-27
Serial No. 2

Comp No. P 55

Diary No. of letter replied to .....

General and Revenue Secretariat
( )
the *192*

To
The D. C.
Mysore

Date of issue 10/10/27

Signed by Asst. S

Sir,

With reference to your letters no GL 52/27 d 19 and no GL 52/27 d 21 stating that the P.P. Mysore be asked to conduct the prosecution the Palace Defalcation Case also to oppose bail application in the Sessions Judge I am directed to state that your action is approved

I have etc

over 9/10 Secy to Govt

List of enclosures.....

Copied by.....

Examined by .....

WD 0562 -GPB—31,000—17-8-25

4 4212 p827

3058

Encls Two judgments

Office of the Special Magistrate for the
Palace Treasury Defalcation, Mysore,
Dated Mysore, 22nd February 1928.

From

T.G. Rama Iyer, Esq., B.A.,

District and Special Magistrate,

Mysore District, Mysore.

To

B. Nagappa, Esq., Bar-at-law.
Legal Remembrancer and Law Secretary
to the Government of Mysore,
BANGALORE.

Sir,

I have the honour to forward herewith the copies of judgments in Criminal cases numbers I and 2 of 1927-28 on the file of my Court for information.

I have the honour to be,

Sir,

Your most obedient servant,

District Magistrate,

Mysore District.

5420/27
P 827

POLICE DEPARTMENT.

No. ROC 580/27
22

OFFICE OF THE
INSPECTOR-GENERAL OF POLICE IN MYSORE,

Dated, Bangalore, 23-2- *192*8

FROM

S. HIRIANNAIYA, ESQ., M.A., B.L.,
Inspector-General of Police in Mysore,
Bangalore.

To

B. Nagappa, Esq., Bar-at-law.,
Legal Remembrancer & Secretary to Government of Mysore,
Law Department.

Jan 27
Sir,

I have the honor to forward herewith for the information of Government copies of extracts from the Judgments of the Special 1st class Magistrate, Mysore in the Palace Treasury Defalcation cases convicting and sentencing all the three accused persons to various terms of imprisonment and fine.

I have the honor to be,

Sir,

Your most obedient servant,

G. Ramaniah

for Inspector General of Police

n the Court of the Special 1st Class Magistrate, for Palace Treasury Defalcation cases, Mysore.

Present: T.G.Rama Iyer, Esq., B.A.,
Special 1st Class.Magistrate.

C. C. No. 2 of 1927- 1928

Complainant:- Accused:-

Government 1. V.Ramiah
2. Subbanna
3.C.S.Lakshminarayana Setti.

xx xx xx

In these circumstances I find all the three accused guilty of the offences they stand charged with as follows:-

A1. Ramiah the offences under Section 477 A and 403/109 I.P.C.

A2. Subbanna Do

A3. Lakshminarayana Setti, the offence under Sec.408 I.

There are no alleviating circumstances in the conduct of the accu On the other hand the offences have been committed under circumst which considerably aggravate the crime, and there is no reason wh deterrant sentences should not be passed. In these circumstances convict the first accused Ramiah of the offences charged against under Sec. 477 A and 408/109 I.P.C. and sentence him to undergo rigorous imprisonment for two years for each offence the sentence will run concurrently as the offences relate to acts in the same transaction. I convict the second accused Subbanna of the offen under 477 A and 408/109 I.P.C. charged against him. In view of h advanced age and weak health I think a lenient sentence will be sufficient. I sentence him for the above two offences to unde rigorous imprisonment for nine months for each offence. The

will run concurrently for the reason that the two offences relate to the same transaction. I convict the third accused C.S. Lakshminarayana Setti of the offence under Section 403 I.P.C. and sentence him to undergo rigorous imprisonment for two years and to pay a fine of rupees one thousand only in default to undergo a further period of rigorous imprisonment for 6 months.

Under Section 545(b) Criminal Procedure Code I direct that the whole of the fine recovered be given to the Palace Treasury as compensation for the loss sustained.

Pronounced in open Court.

Sd/- T.G.Rama Iyer,
Special Magistrate,
18-2-1928.

COPY

G. Lakshmanaswamy

Inspector General of Police.

In the Court of the Special 1st Class Magistrate for Palace Treasury Defalcation cases, Mysore.

Present:-

T.G.Rama Iyer, Esq., B.A.,
Special 1st Class Magistrate.

C.C.No. I of 1928-1928

Complainant: Accused:-

Government. 1. V.Ramiah
2. Subbanna
3. C.S.Lakshminarayana Setti.

xx xx xx

In these circumstances I find all the three accused guilty of the offences they stand charged with as set forth below.

A1. Ramaiah - the offences under Section 477 A and 408/109 I.P.C.

A2. Subbanna - the offences under Sections 477 A and 408/109 I.P.C.

A3. Lakshminarayana Setti with the offence under Section 408 I.P.C. in respect of the sum of Rs. 1366-4-0. Out of the sum of Rs. 1407-0-0 included in the charge there are no alleviating circumstances in the conduct of the accused. On the other hand the offences have been committed under circumstances of grave aggravation and there is no reason why deterrent sentences should not be passed. In these circumstances I convict the first accused V.Ramiah of the offences under Section 477 A and 408/109 I.P.C. with which he was charged and sentence him to undergo rigorous imprisonment for two years for each offence. The sentence will run concurrently as the offences relate to the same transaction. I convict the second accused Subbanna of the offences under Sections 477 A and 408/109 I.P.C. with which he was charged. In view of his advanced age and weak health I think a lenient sentence will be sufficient. I

I therefore sentence him for the above two offences to undergo rigorous imprisonment for nine months for each offence. The sentences will run concurrently. I convict the third accused C.S.Lakshmanarayana Setti of the offence under Section 408 I.P.C. and sentence him to undergo rigorous imprisonment for two years and to pay a fine of rupees One Thousand in default to undergo a further [illegible] term of rigorous imprisonment for 6 months.

Under Section 545 (b) Cr.P.C. I direct that the whole of the fine recovered be given to the Palace Treasury as compensation for the loss sustained.

Pronounced in open Court.

Sd. T.G.Rama Iyer,
Special Magistrate.

18-2-1928.

COPY

G. Lakshmanaiah
Inspector General of Police.

No. Gi-78-M

Office of the District Magistrate,
Mysore District.

Dated Mysoré, 25th February 1928.

From T.G. Rama Iyer, Esq.,B.A.,
THE DISTRICT MAGISTRATE, MYSORE DISTRICT

To

B. Nagappa, Esq.,Bar-at-Law.,
Legal Remembrancer and Secretary to the
Government of Mysore, Law Department,
Bangalore.

Sir,

I have the honor to state that the third accused C.S.Lakshminarayana Setty in the Palace Treasury Defalcation cases has appealed before the Sessions Judge, Mysore Division, against his conviction and sentence. The cases are posted to 23rd March 1928.

I have the honor to be,
Sir,
Your most obedient servant,

For District Magistrate,
Mysore District.

A.N.

9

A. P. VI. G1}

SUBJECT.....

.....

.....

Section Law

File No. 9-27

Serial No. 5

No. 5351 (3)

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

To The Govt Advocate

Date of issue 14/3/28

Signed by M. Nes

Sir,

I have the honour to forward herewith copies of judgments in Palace Treasury Defalcation Cases with Copy of letter of D. Dr. Mysore, intimating that the 3rd accused has preferred an appeal before the Mysore Sessions judge, and to request you to argue the appeals before the Sessions Judge on behalf of Govt

I have the

List of enclosures.....

Copied by

2. Your fee for the case will be Rs 50/- per day, in addition to Usual-a admissible under the Rules.

Examined by

Secy to Govt

over

WD 0325—GPB—30,000—26-5-27

Copy to C B

D. O. No.

O 4629/27

Law Secrt

Rs 100 adv.

Dear Sir, if that was the date paid for the other case,

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,
Bangalore, 18th March 1928.

Law 18-27-6

The Government have recently passed orders authorizing me to appear in and conduct the Criminal Appeal in the Palace Treasury Defalcation Case before the Sessions Judge, Mysore, and the orders have been recently communicated to me as per Law Secretary's Letter No P. 5357 dated the 14th instant

2) The letter also states that my fee for the case will be Rs 50/- per day and this circumstance has necessitated my writing to you this letter. As the date of hearing, viz the 23rd instant is fast approaching and as there is therefore

no

No time for correspondence on the question of my remuneration I have decided to proceed with the case on the date of hearing and I have already commenced the study of the records and the several questions of law involved, taking it for granted that Government will deal with the question of my remuneration as a just manner.

3) You are doubtless aware of the fact that in cases that I have conducted before the Sessions Court, Bangalore, I have been paid my fee at the rate of Rs 100/- per day. In the S.D.S. Nyayapathi Case I was remunerated on that basis not only for) work done before the Committing Magistrate Court & the Sessions Court (where the trial lasted for over 60 or 70 days) but also for

D. O. No.

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,

Bangalore,.....192

for appearances before the Special
Commissioner (of which I am the Chairman)
which lasted for nearly 18 days.

4) Such being the case it is rather
surprising that a fee of Rs 50/- per day
for work in an outstation should have
been fixed without Consulting me. In fact
for work done outside Bangalore the fee
ought to be something like Rs 150/- a day.

I may also be permitted to mention
in this connection that, in addition to the
work done in Court (for which alone the
fee is calculated & paid), I have to spend
lot of time in studying the bulky
records of this very sensational case and
be prepared to meet all questions
law and fact that might be raised

at the hearing I believe the accused are getting some Vakil from Madras & I am sure all kinds of questions will be raised

5) Under the above circumstances I am obliged to bring to your kind notice that the sum of Rs 50/- is far to inadequate I wanted to make a personal representation on this subject to you but as you are not likely to return to Bangalore in time and as in the meanwhile I have to prepare in poms now and argue the case on the 23rd inst I have had to trouble you with this letter.

6) I hope you will kindly sanction at least a sum of Rs 100/- at least if not Rs 150/- for which is sanctioned.

Yours sincerely
C Chandra

Rajasabhabhushana
K Chandra B.A.
member of Council, Camp Mysore

5/2092

Confidential

No. T. C 71/27-28.
Encl one

Office of the Deputy Commissioner.
Mysore District.

Dated Mysore, ...9th March 1928.....

From

T . G. Rama Iyer, Esq., B.A., Law 14-27-7

Deputy Commissioner, Mysore District.

To

B. Nagappa, Esq., Bar-at-law.,

Secretary to the Government of
His Highness the Maharaja of Mysore,
(Law Department) *Bangalare.*

8
10/3/28.

SUBJECT:—

Special remuneration to the Public Prosecutor, Mysore

Sir,

I have the honour to forward herewith for orders of Government the representation of the Public Prosecutor, Mysore for special remuneration for conducting the prosecution in the Palace Treasury Defalcation Cases and also in the Mysore Taluk Treasury Defalcation Cases.

In the Palace Treasury Defalcation Cases he appeared on 57 days. I would suggest a remuneration of Rs. 25/- a day in the Palace Treasury Defalcation Cases. At this rate the amount of remuneration works up to Rs. 1,425/- There is no justification for the Public Prosecutor claiming a remuneration on the basis of the remuneration said to have been paid to the Defence Counsel by the accused. The defence counsel who appeared in the Palace cases is a counsel of far far superior type. As regards the manuscript arguments of the learned Public Prosecutor forwarded herewith I may say that they have the peculiar advantage of not meeting the several points of law and some of the points of fact and probabilities urged by the learned counsel of the defence.

In respect of the Mysore Taluk Treasury Defalcation Cases, I would suggest the Public Prosecutor being given a special

lump-sum

.52

13

From,
Mr. M. Sreenivasa Aayangar B.A. B.L.
Public Prosecutor.
Negapatam

To
B. Nataraja Ayyar.
Bar-at-Law
Secretary to Government of Mysore
Law Department
Bangalore

Dated 12-4-28
No. 538 of 27-27

Law 134

Sir,

I have the honour to request you to be pleased to place before Government the under noted representation for favourable consideration.

I learn that the Post Graduate has been refused to admission in pursuit of the course in the Science Honours Examination course before the Court of Session here.

As Public Prosecutor, as a rule, I have attendance in pursuit of Criminal Cases, pursued by First Class Magistrates as also important criminal appeals, before the Court of Session. I have done so on hundreds of cases of trust in pursuance and intimacy, with non-collaborators during 2004 course of Office as Public Prosecutor. A declaration from the would

Prosecutor

capable of being continued, that I am in the Queen's Government, found unequal to the task, in spite of my having adhered & conducted the prosecution in the trial court. I am at a loss to know as to what could have weighed with the Court, to deprive me of the above privilege.
Having had the benefit of 26 years - practice, at the Bar, I may be credited with a tolerable amount of Confidence and may also be presumed to beg a legitimate claim to both respects.
Thus I am impelled, in my anxiety, to advert to some circumstances, which might have alienated the good will of some Counsels me, yet I refrain from so doing, till I know definitely, as to why I have been deemed the unequal privilege.
If the recorded evidence, read & the already submitted arguments, after perusal, be deemed enough, to vouch for my Confidentiality & faithful discharge of duty, I beg I never may be subjected to the humiliation of being called upon, to assist the Court Advocate was retained to do my duty, as I was found unequal to the task.
If it be that the Court Advocate is asked to address before the Hon'ble Court, to argument been left with all the facts of the case, as the same is likely to be before the Honourable Chief Court, in some form or other, then he may be asked to address

along with me, so that we may ascertain between us, as to who should argue questions of law & who on facts.

I have the honor to be,
Sir,
Your most obedient servant,
M. Greenow, Augusta
Public Accountant

I

No 76809
Law: 19-27-6

To

The Government Advocate,

Bangalore.

7/5/28

Sir,

With reference to your D.O. letter of the 18th March 1928 representing that the scale of remuneration fixed for arguing the Palace Defalcation appeal cases before the Sessions Judge Mysore Divisionis inadequate, I am directed to state that on reconsideration your fee for the case is fixed at Rs. 100/- per day

Written office letter No 5357 dt 14-3-28

I have etc.,

Secretary to Govt. Law Deptt.

c.n.

G.R.S. App. F VI G-2]

II - 11 85 16

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

Sec leg.

File No. 19.27

Serial No. 9

General and revenue Secretariat

( )

the *192*

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue..... 7/5 Tr 28

Signed by..... M' NS

Read—

dated 9-3-28

letter no T.C 71/27-28 from the Deputy Commissioner, Mysore ~~to the~~ Sr, ~~forwarding~~ regarding the special remuneration claimed by the Public Prosecutor, Mysore, for conducting the Palace Treasury defalcation cases in the special magistrate's Court, Mysore.

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

Gostare Read to

Order Thereon No. J 6810-12

Sanctioned ~~that~~ a fee of Rs. 30/- a day ~~be fixed~~ for ~~the~~ 57 days the ~~Palace~~ defalcation case during which the Public Prosecutor, Mysore, conducted the Palace Treasury defalcation cases.

Yes

Sd/-

To, The Public Prosecutor Mysore town
The Deputy Commissioner Mysore Sr
The Comptroller, Mysore Govt

Secy, to Govt, Law Deptt

Arm 3074

A. P. F. VI. G1]

SUBJECT.....

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Diary No. of letter replied to.....

Section

File No.

Serial No.

No. P 6846

General and Revenue Secretariat

( )

the *192*

To The Public Prosecutor

Rayson Dr.

Madras

Date of issue 9/5/28

Sir,

Signed by

With reference to your letter no. 538 dated the 12th April 1928 I am directed to inform you that you may appear with the Govt. Advocate in support the Government in the appeal before the Sessions Court in the Palace Treasury Defalcation case.

List of enclosures.....

Yours &c.

Law Secy

P.P. 6846.

Copy to the Govt. Advocate in continuation of this office letter no. P 5351 of 14.3.28

Copied by

B.O.

Examined by

Law Secy

over

WD 0326—GPB—30,000—26-5-27

48 1478/28

WD 2665—GPB—50,000—1-6-27

1927-28

From

Mr. M. Keenan Agent Con
Public Prosecutor
Negapatam

To B. Nallatamby Esq Bar-at-Law
Legal Remembrancer
& Secretary to Govt. Law
Department. Bangalore

Dated 9-5-28

Despatched 9-5-28

Received

General No. Bo No 5-70 727-28.

No.

Enclosure No.

8-1
10/5

Sir,

I just received the ver-
dict re the hearing of my
head quarters allowance in the
Palace Revenue Defalcation
cases. In the services rendered
by me in the Negapatam Palace
Revenue Defalcation cases
favourable orders re the
grant of a special remunera-
tion for the 22 days of hard
work I did from the 16th of
January 1928 to the 14th Feb 28
may kindly be learned.

The Negapatam Palace case is in
some respects more intricate
than the Palace case. I had
to work at both the Palace
& Palace cases, at one stretch
continuously & thus meant
accidentally strain on
my nerves. My Lord's grace,
I encouraged to do my humble
best & succeeded to further

the cause of justice, by bringing the offenders to pay the penalty of their misdeeds. In my humble opinion, if any case merits special commendation, by reason of its intricacy & importance, this case does.

I would kindly invite Investors re-consideration of special commendation to Public Prosecutor in this matter.

I leave the matter in the hands of God & shall accept with a grateful heart, anything that God may be pleased to give me for services rendered.

I remain, Dear Sir,

Yours sincerely,

M. Seenivasagam

Public Prosecutor

19 5601/927

WD 2665—GPB—50,000—1-6-27

192

From

The Public Prosecutor,

Mysore.

To

The Legal Remembrancer and Secretary to Government, Law Department. Bangalore.

Dated 14th May 1928.

Despatched

Received

General No. 573 of 1927-28

No.

Subject:- Remuneration in Palace defalcation cases

Enclosure No.

Sir,

I have the honour to state that after the receipt of Government order no., P 6810-12-Law 19-27 dated 7th May 1928, I wrote to the Comptroller to the Government of Mysore, to authorize payment of the sanctioned amount at the District Treasury, Mysore. In answer to the above the Comptroller in his D.O.no., 1609 dated 12-5-28 is pleased to observe that a bill is required by me for the amount due and that the same must be duly countersigned by the Special Magistrate before whom I appeared and conducted the prosecution in the Palace Defalcation cases. The said bill was sent to Government by me, through the Special Magistrate, who was also officiating as District Magistrate then. I trust he has countersigned it in token of my

having attended his court on 57 days. The quantum of remuneration was one that had to be settled by Government and as such the bill sent by me, along with the order of Government, may kindly be sent to the Comptroller for purposes of pre-audit. The Comptroller after pre-audit will return the bill to me, authorizing payment. It is therefore requested that necessary action may kindly be taken in the matter.

I have the honour to be
Sir,
Your most obedient servant
M. Sreenivasa Gupta
Public Prosecutor, Vijayawada.

21

5700
1907

MEMORANDUM

No., 582/27-28

From	*To* 21st May 1928
The Public Prosecutor, Mysore Division, M y s o r e.	The Legal Remembrancer and Secretary to Govt., Law Dept., Bangalore.

Sir,

I have the honour to invite your kind attention to my letter no., 573/27-28 dated 14-5-28, wherein I had requested that the bill that was sent by me to Government in the Palace Treasury Defalcation cases through the Special Magistrate and the then District Magistrate, Mysore, may kindly be sent over to the Comptroller for purposes of preaudit as required by him in his letter no.,A.G.R.11.16.9 dated 12-5-28. I shall be thankful if immediate action be taken in the matter.

I have the honour to be
Sir,
Your most obedient servant,

Public Prosecutor, M y s o r e

WD 1745—GPB—150 Reams—2-3-27

[*Please reply overleaf*

A, [illegible] F. VI. GI]

SUBJECT.....

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Diary No. of letter replied to.....

Section

File No.

Serial No.

No. 7009

General and Revenue Secretariat

( )

the 192

To The Public Prosecutor
Mysore

Date of issue 23/5/28

Signed by

Sir,

With reference to your letter No: 573 of 27-28 dated 14th. may 1928 requesting me to forward to the Comptroller. for Pre-audit the bill sent by you for Conducting the Palace Treasury Defalcation Cases in the Court of the Special First Class magistrate Mysore, I am directed ~~have the honour~~ to inform you that ~~no~~ no bill ~~for the period to~~ has been received has been received in this from the St-Master except your Office but only over

List of enclosures.....

Copied by

Examined by

letterhead the dates on which
you attended the Special ~~Work~~ Court
and the work done on such days,
~~has been forwarded by the~~ sent
~~District Magistrate Mayuram,~~
~~along with Your letter No: 472~~
~~of 27.2 dated 28/29 th February 1928.~~
~~I such~~ I am to request you to
~~kindly~~ prepare a bill and ~~send it to~~
after getting it Countersigned
~~by the~~ by the District Magistrate,
~~for being~~ forwarded to
the Comptroller for audit.
and payment

Have etc

for Secy to Govt
Law Dept.

DRM
28/5/28

No. 666/27-K

23

5842 P82/

MEMORANDUM

From	To	6th June 1928
The Public Prosecutor, Mysore Division, Mysore.	The Secretary to Government. Law Department, Bangalore.	

Sir,

I have the honour to state that the Comptroller to the Government of Mysore informs me in his office letter no., 1680 dated 29-5-28 that it is not usual for his office to call for bills intended for preaudit and as such my bill of Rs 1710/- for services rendered by me in the Palace Treasury Defalcation cases may be got from your office and be sent to his office for preaudit. I request therefore that my memo, showing dates of attendance, may kindly be returned to me after noting therein the amount of remuneration sanctioned by Government, so that the office of the Comptroller may not raise the objection that the bill ~~xx~~ is not self-contained and that the amount claimed in the bill is indefinite and cannot be passed for payment. On re-

P.T.O

WD 1745—GPB—150 Reams—2-3-27

[Please reply overleaf

No., 616/27-28

24

MEMORANDUM

From	To
The Public Prosecutor, Government Pleader, Mysore.	9th June 1923 The Legal Remembrancer and Secretary to Govt. of Mysore, Bangalore.

Law Department

Has the honour to invite his reference to this office letter no., 606/27-28 dated 6th instant, regarding the return of the memo showing dates of attendance in Palace Treasury Defalcation cases, for being sent to the Comptroller to the Government of Mysore, for authorising the payment of my remuneration of Rs 1710/- and to request that immediate action may kindly be taken in the matter of despatching the said memo.

Public Prosecutor, Mysore.

Complied 11/6

Law 2

VD 1745—GPB—150 Reams—2-3-27

[Please reply overleaf

No 623/27-28.

S 9832

MEMORANDUM

From	To
	14th June 1928.
The Public Prosecutor,	The Legal Remembrancer and Secre
Mysore Division, Mysore.	taryto Govt. Law Dept., Bangalore.

Has the honour to invite reference to this office letters nos., 606/27-28 dated 6-6-28 and 616/27-28 dated 9-6-'28 and to request that the memo submitted by me regarding my remuneration in Palace Treasury Defalcation case may kindly be returned to me as early as practicable to enable me to send it to the Comptroller for authorising its payment.

Public Prosecutor, Mysore.

Early
15/6
Please return the memo herewith to the P.P. Mys. ? Yours
duplicate already sent
15/6

[Please reply overleaf

26

APP. F. VI. Gl.]

SUBJECT.....

.....

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Section

File No.

Serial No.

No. 1.7270

Cultivation

To

The Public Prosecutor
Mysore Dn.
Mysore

Diary No. of letter replied to.....

General and Revenue Secretariat
( )
the *192*

Date of issue 16/6/28

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Sir,

With reference to your letters nos. 606 to 616 dated the 6th & 9th June I am directed to forward herewith the memo of work done in connection with the Palace Emp. Defalcation cases sent by you to the Dc. Maffe, Mysore with your letter no. 472 d 25-2-28 and to request that it may

over

kindly be returned to this
office for record, when done with.

Thereto-

Yours

POLICE DEPARTMENT. 27 6137

No. 23976 27

OFFICE OF THE
INSPECTOR-GENERAL OF POLICE IN MYSORE,

Dated, Bangalore, 28th June ..... 1928.

FROM

S. HIRIANNAIYA, ESQ., M.A., B.L.,
Inspector-General of Police in Mysore,
Bangalore.

To

B. Nagappa, Esq., Bar-at-Law.,
Legal Remembrancer and Secretary to
Government, Law Department.

Sir,

I have the honour to enclose herewith for the information of Government a copy of D.O. letter dated 27th June 1928 from the A.S.P. Mysore City, reporting the result of the appeal in the Palace Treasury Defalcation Case.

I have the honour to be,

Sir,

Your most obedient servant,

Inspector General of Police.

D.O.letter No.209/27 dated 27th instant from the Asst Superintendent of Police, Mysore city to the Inspector General of Police in Mysore.

I beg to report that orders were passed by the Sessions Judge, Mysore, in the Palace Treasury Defalcation case today.

The imprisonment of 4 years awarded to 1st accused Ramiah was reduced by one year.

The R.I.awarded to 2nd accused Subbanna was commuted to simple.

The sentence of the 3rd accused C.S.Lakshminarayana Sett was confirmed.

G. Ramambha

For Inspector General of Police.

29

A. P. F. VI. G1]

SUBJECT.....

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.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

Date of issue..... 5/7/28

Signed by..... M. NS

List of enclosures.....

Copied by ..... KN

Examined by .....

Section

File No.

Serial No.

No. ~~G 457~~ 115

To The Government Advocate
Bangalore

Sir,

I am directed to request you to ~~get~~ ~~obtain~~ forward for ~~record~~ ~~on~~ the ~~from~~ information ~~and~~ ~~early date~~ a copy of the judgment passed by the District & Sessions Judge, Mysore, in the appeal filed by the accused in the Palace Treasury defalcation case ~~and send the same to this office at an early date~~.

I have etc

M

over Forward to Govt—

DM 4/7/28

30 124828 P

In reply please refer to
No. 15

Tel. Address :—
JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

angalore..6th.....July.....1928.

FROM

K. SHANKARANARAYANA RAO, ESQ., M.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

he Secretary to the Government
of H. H. The Maharaja of Mysore,
Law Department, BANGALORE.

SIR,

With reference to your letter No.P.115/Law dated the 5th July 1928, I have the honor to state that a copy of the Judgment of the Sessions Judge, Mysore Division, in the Palace Treasury Defalcation Cases, has been applied for and that the same will be forwarded to Government as soon as the same is received in this office.

I have the honor to be,
Sir,
Your most obedient servant,

GOVERNMENT ADVOCATE.

CSN.

31 234/28.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

In reply please refer to
No. 25

Tel. Address:—
"JURIST," Bangalore

Bangalore....12th: July.....1928.

FROM

K. SHANKARANARAYANA RAO, ESQ, M.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Secretary to the Government
of H.H.The Maharaja of Mysore,
Law Department, BANGALORE.

SIR,

With reference to correspondence ending with your letter No. P.6809/Law. 19-29 dated the 7th May 1928, I have the honor to state that Judgment was pronounced on 27th June 1928, in Mysore Criminal Appeals Nos.57, 58, 65, 66, 46 & 47 of 1927-28, on the file of the Sessions Judge, Mysore Division (Appeals filed in the Palace Treasury Defalcation Cases) practically dismissing the Appeals in question.

2. The convictions of all the three accused were confirmed. The sentence of imprisonment passed on the 1st accused Ramiah was reduced by one year and that on the 2nd accused Subbanna was converted from Rigorous to Simple imprisonment. The sentence passed on the 3rd accused Lakshminarayana Setti was confirmed.

3. A copy of the Judgment has been applied for and the same will be forwarded to Government as soon as it is received in this office.

I have the honor to be,
Sir,
Your most obedient servant

GOVERNMENT ADVOCATE.

CSN.

32 24/1928

In reply please refer to
No. 33

Tel. Address :—
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore. 13th July *1928.*

FROM

K. SHANKARANARAYANA RAO, ESQ, M.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
Law Department, BANGALORE.

SIR,

With reference to your letter No. P.6809/Law.19-29, dated the 7th May 1928, and in continuation of this Office letter No. 25 dated the 12th July 1928, I have the honor to forward herewith for the sanction of Government, a Bill for Rs.1,300/- only being my remuneration for professional -- services rendered on behalf of Government in conducting the Appeals filed by the Accused in the Palace Treasury Defalcation Cases, before the Sessions Judge, Mysore Division.

I have the honor to be,
Sir,
Your most obedient servant,

K Shankaranarayana Rao

GOVERNMENT ADVOCATE.

CSN.

33

G.R.S. App. F VI G-2]

SUBJECT.....

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y No. of letter replied to.....

Sec Law

File No. 19-27

Serial No.

General and revenue Secretariat

( )

the 192

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue..... 17/7/28

Signed by..... M N S

Read—

Letter No: 33 dated 13th July 1928 from the Government advocate, forwarding for sanction a bill for Rs 1300/- ~~for~~ being the remuneration claimed for professional services rendered in the Palace Treasury defalcation Appeals before the Sessions Judge, Mysore

Order Thereon No. 1401-2 (bill)

The bill is sanctioned and forwarded to the Comptroller for payment.

By Secretary to Govt Law Dept

Dsp 14/7

To the Govt Hdrs.

The Comptroller with the bill

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

34 366 928

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

In reply please refer to
No. 47

Tel. Address:—
"JURIST," Bangalore.

Bangalore...20th July,...1928~~29~~.

FROM

K. SHANKARANARAYAÑA RAO, ESQ., M.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Secretary to the Government
of H. H. the Maharaja of Mysore,
Law Department, Bangalore.

SIR,

I have the honor to forward herewith, my Travelling Allowance Bills for the months of May and June, 1928 (for Journeys to Mysore and Back, for conducting the ~~Rajx~~ Appeals in the Palace Treasury Defalcation Cases), and to request that the same may be kindly returned to me with your countersignature, as required in Art. 641 (3) of the Mysore Service Regulations.

I have the honor to be,
Sir,
Your most obedient servant,

Government Advocate.

35

F. VI. Gll

UBJECT.....

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Section

File No.

Serial No.

No. 7599 (2)

...ary No. of letter replied to.....

General and Revenue Secretariat

( )

the 192

To The Government Advocate
Bangalore

...ate of issue..... 24/7/28

...ed by.....

Sir,

With reference to your letter No: 47 dated 20th July 1928 forwarding ~~for Counters ignature and return~~ your two T.A. bills for the months of May and June 1928 ~~received~~ I have the honour to return the bills herewith duly Countersigned.

I am Sir
Your most obedient servant
for Secy to Govt
Law Dept.

List of enclosures.....

Copied by .....

Examined by .....

24.7.28

over

2641 P 28

In reply please refer to
.....57.....

Tel. Address "JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore.....20th July 1928.....192

24.7

FROM

K. SHANKARANARAYANA RAO, ESQ., M.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

24-7.

To

The Secretary to the Government
of H. H. the Maharaja of Mysore,
Law Department, Bangalore.

SIR,

I have the honor to forward herewith, the Travelling Allowance Bill of my Establishment for the month of June 1928, and to request that the same may be kindly returned to me, duly countersigned, as required in Article 641 (3) of the Mysore Service Regulations.

I have the honor to be,
Sir,
Your most obedient servant,

Government Advocate.

P., F. VI. G1J

SUBJECT.....

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Diary No. of letter replied to.....

Section

File No.

Serial No.

No. 7701

General and Revenue Secretariat

( )

the *192*

To The Govt advocate
Bangalore

Date of issue 28/7/28

Signed by M. 185

Sir,

With reference to your letter No: 57 dated 20/24th July 1928 of your establishment forwarding the T.A Bill for the month of June 1928, I have the honour to return the ~~Bill~~ Account herewith duly Countersigned

I have etc

for Secy to Govt
Law Dept

List of enclosures.....

Copied by .....

Examined by .....

over

38 606

In reply please refer to
No. 100

Tel. address:—
"JURIST" Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore....6th....A u g u s t *1928*.

Leave 19-27-10

FROM

K. SHANKARANARAYANA RAO, ESQ, M.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
Law Department, BANGALORE.

25
2718
Law
7/8

SIR,

With reference to correspondence ending with your letter No. P.599/Law. dated the 24th July 1928, I have the honor to retransmit herewith my Travelling Allowance Bill for the month of June 1928, and to request that the sanction of Government may be kindly obtained for my halt at Mysore for more than ten days (as required in Art.582(b) of the Mysore Service Regulations) in connection with the Appeals in the Palace Treasury Defalcation Cases, as the Comptroller has taken objection to the same in his Memo No. T.450 dated 25th July 1928 (sent herewith for reference).

I have the honor to be,
Sir,
Your most obedient servant,

K Shankaranarayana Rao

GOVERNMENT ADVOCATE.

CSN.

G.R.S App. F VI G-2]

SUBJECT.....

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Diary No. of letter replied to.....

General and revenue Secretariat

( )

the *192*

Date of issue..... 14/8/28

Signed by..... M. R.S

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

Sec Law

File No. 19-25

Serial No. 11

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

Letter No 100/2 dated 6th August 1928 from the Govt Advocate requesting sanction of Govt. for his halt at Mysore for more than 10 days ~~[illegible]~~ in Connection with the Appeals in the Palace Treasury defalcation Cases—

Order Thereon No. 10967

Under Art 582(4) of the Mysore Service Regulations, Govt are pleased to sanction the halt at Mysore in the month of June 1928 for 14 days made by the Govt Advocate in Connect with the Palace Treasury defalcation

LEO

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Read:--

Letter No. 109/2 dated 6th August 1928 from the Government Advocate requesting sanction of Government for his halt at Mysore for more than 10 days in connection with the Appeals in the Palace Treasury Defalcation cases.

****

O R D E R No.P.

Dated Bangalore the 13th August 1928.

Under Article 582 of the Mysore Service Regulations, Government are pleased to sanction the halt at Mysore for 14 days in the -- month of June 1928 made by the Government Advocate in connection with the Palace Treasury Defalcation appeals before the Sessions Judge, Mysore Division.

for Secretary to Government
Law Department.

MY

To

The Comptroller to Government.

The Government Advocate returning the enclosures.

c.n.

KING'S BINDER FILE.

K. B., L.

British Manufacture. **F'cap S.S. 1184.**

File No.	Name	Address	Date from 19 to 19 Reference

Public Prosecutors argument
in the Palace Treasury Defalcation
Cases Nos 142 of 27-28 on the
file of the Special First class
Magistrate - Imphal - along-
with his application to the
Assistant Magistrate - Imphal.
29th Feb 1928

Ag. Assistant - Asst. to the
Public Prosecutor
Imphal

From

Mr. M. Sreenivasa Iyengar, B.A., B.L.,

Public Prosecutor,

M y s o r e.

Rec?
28/2/28.

To

T.G. Rama Iyer Esq., B.A.,

Officiating District Magistrate,

M y s o r e.

Dated 25th ~~of~~ 29th of February 1928.

No., 472 of 1927-'28.

Enclosures:- Copy of my argument in the Palace cases, and memo noting dates of attendance in the said cases.

Sir,

I. You are aware that Judgments were delivered in the Palace Treasury Defalcation cases on the 18th instant convicting all the accused. In the Mysore Taluk Treasury Defalcation cases also, all the accused were found guilty and sentenced to various terms of imprisonment on the 22nd instant.

II. You know with what zeal and devotion to duty, I worked in the Palace cases. My work in the other cases was only a little less exacting. The two sets of cases together entailed on me, a continuous strain - physical and mental, for the best part of four months and I cannot think of any other cases that were equally exacting within my experience of 26 years as an Advocate and 8 years as Public Prosecutor.

III. The trial of the first Palace case began on the 14th of October 1927 and there were 31 sittings in all. For the trial of the second Palace case, the court sat for 25 days. Arguments in both the cases together were heard on 6 days. I enclose a copy of my argument to enable Government to appreciate the volume and strenuous nature of the work.

IV. The trial of the Taluk cases began in the Sessions court on the 16th of January 1928 and continued day after day, but for

a short interval, till the 14th of February 1928.

V. While I am thankful to Government for the honour done to me in having deemed me worthy and competent to conduct the prosecution of these cases, which are of unique importance and intricacy, I beg leave to submit for the gracious consideration of Government, the following facts, while determining the amount of remuneration that may be considered commensurate with the arduous and difficult nature of my work.

(1) The careful study and discrimination necessary for placing on record the large mass of oral and documentary evidence, in support of the prosecution case.

(2) The labour involved for marshalling in my argument, the voluminous recorded evidence, with clearness and consistency.

(3) The special importance of the defalcation cases under reference.

As an indication of how utterly inadequate the usual remuneration is, to the importance and exacting nature of these cases, I may also be permitted to state that the legal remuneration of the defence counsel Mr.Narasimhachar of Madras, was Rs.250 a day for the first ten days and Rs. 200/- a day thereafter.

VI. In the Taluk Treasury cases, though as per rules, I may not be entitled to any extra remuneration, I submit that the special importance and complicated nature of these cases, may also be taken into consideration, while fixing my remuneration.

VII. A memo detailing the dates on which I attended the Special court is appended for favour of being countersigned by the learned Special Magistrate.

VIII. I shall feel obliged if you will kindly forward to Government this representation of mine along with my arguments with such remarks as you deem necessary.

I have the honour to be
Sir,
Your most obedient servant,

M. Srinivasa Aiyangar

Public Prosecutor, Mysore.

In the court of the Special First class Magistrate,
M y s o r e.

C.C. No., 1 of 1927-'28.

Government VS. 1. Ramia, 2. Subbanna, 3.C.S.Lakshminarayana Shetty.

Public Prosecutor's Argument. on 31-1-28 & 1-2-28

The prosecution case is that the three accused persons who were concerned in the payment of Ursu stipends to the several stipendiaries, month after month, and year after year, from 1921 to 1927 May, embezzled various sums of money, day after day, and gave a false account thereof, with the result that in August 1927, it was found that the sum total of the defalcation amounted to about Rs 84,000. Further, that the above referred fraud was in consequence of the concerted action of the three accused persons, and that these in conjunction with some others, made common cause to betray the trust reposed in them. The present 3rd accused is charged with having committed Criminal Breach of trust in respect of a sum of Rs 1,407-12-0 on 2-4-'27 and Rs 1330 on 3-9-26 in C.C. No 2727-28. accused 1 and 2 are charged with abetment of the commission of the said offence by the 3rd accused. Further, accused A_1, and A_2 are also charged with having falsified the entry in the daily abstract of the Ursu Baravard pertaining to 2-4-'27 and 3-9-26 an offence punishable under section 477_a. The 1st accused is the Duftar Sheristedar in the Palace office. It was the 1st accused that was preparing the Baraward of the Ursu stipendiaries. The 2nd accused is a Sheristedar in the Palace Treasury and was asked to supervise the disbursements of Ursu stipends in a hall, on first payment days. The 3rd accused is the Head Shroff in the Palace Treasury and was the man that usedto send money wanted for disbursements on 1st payment days through any one of his assistant shroffs. The 1st accused had the Baraward with him and used to cause payments to be made, by reading out the names with serial numbers and the amounts due to the several stipendiaries. The 2nd accused and the Assistant Shroff used to pre-

prepare two seperate lists, as Ramia, read out from the Baraward the numbers, names and amounts payable. The Assistant Shroff would give the list prepared by him to his chief - the 3rd accused, with a view to afford A_3 an oppurtunity to scrutinize the payments.

On subsequent days, payments as a rule would be made at the counter alone, in which the 2nd accused had no hand. The prosecution case is that by reason of the conspired action of the 3 accused persons and others, there were defalcations of various sums of money both on first payment days in the hall, and also at the counter on subsequent days of payment. From 1922 till February 1926, excepting on one occasion, viz, on 4-3-'24, defalcations on first payment days were confined to the payments made in the hall. Subsequently, the place of defalcation was changed to the counter. The 3rd accused, began to embezzle large sums of money at the counter alone, thereby reserving in his own hands the control of the whole fraud. It is interesting to study the several methods adopted by the accused persons, to defalcate money from the Palace Treasury and I propose to deal with this aspect of the case, later on, in detail. Now let me first deal with the constitution of the Palace office and the procedure adopted on first payment days.

Then the Baraward with the Audit Register, is taken to ~~Mohamed~~ Usuff Khan, the Head Accountant of the Pre-audit section. Before so doing, Ramia prepares at the end of the Baraward a classified abstract of the current claims due towards Ursu stipendiaries in Canarese. This Canarese abstract is generally translated into English by the Pre-audit section accountant Venkatesia. The endorsement stamp, authorizing payment is put by the accountant of the Audit section. Then the Head accountant ~~Mohamed~~ Usuff Khan, does the ' farce ' of a preaudit by comparing the totals of the classified abstract with the totals of the Audit Register. He thereafter affixes his initials to both. The Manager Mr. Sachitanandam Pillay, thereafter, as a matter of official routine, affixes his initials. The Baraward would then be taken to the Assistant Private Secretary, Mr. S.P. Rajagopalachar for authorising payment. Mr. S.P. Rajagopalachar, on the strength of the initials of the Head accountant and the Manager, authorized payment of the current claims, minus deductions towards deposits, advances and income-tax, and directed the Palace Treasury to make the payment during the course of the month.

III. During the time of the late Mr. B. Ramakrishna Rao, he was personally attending to the first day's payments, when the majority of the Ursus used to come for their stipends. This first day's payment, would not necessarily be the first of a month, as is the case in a Government Treasury; but would generally be a convenient day, in the first week of a month. The first day's payment, after the removal of the Palace Offices to the present building, is made in a room or hall, to the west of the counter room, where the Shroffs, carry on their usual cash transactions After Mr. Ramakrishna Rao's retirement, Mr. S.P. Rajagopalachar was appointed Assistant Secretary and he was for some time superintending the payment on the first payment day.

Procedure on first payment day in a month.

IV. Ramia or Harahari who prepared the Baraward, used to take

the Baravard, with the enfacement order, and ask the Treasurer to arrange for payment. Generally, the date on which the first day's payment was made, would be intimated to the several Local stipendiaries, by Ramia, through his peon Venkataraya. Then the Treasurer would direct the senior Sheristedar - 2nd accused - Subbanna, to supervise the payments in the hall, as his deputy, as the Treasurer would have very many multifarious duties to attend to.

The Treasurer's position was more akin to that of a Treasury officer in a District Treasury than to a Treasurer in the District Treasury. The Treasurer would further send word to the Head - Shroff - the head of the cash section. The Head Shroff of the Palace Treasury combined in himself, the dual functions of a Treasurer and a Head Shroff of a Government Treasury, as he had to handle cash and maintain accounts.

The Head Shroff would usually send Rs 8,050/- (of which - Rs 8,000/- would be in Rupees and notes, and Rs 50/- in small coins) with one of his assistant Shroffs. The Assistant Shroffs were his creatures and men of his choice and these were working along with him at the counter. One of the said assistant Shroffs would go to the adjoining room to make proper payments after satisfying himself that the signatures of stipendiaries to the Baravard were taken. By the time Subbanna and the Assistant Shroff went to the hall, Ramia would have taken the signatures of some of the stipendiaries already collected there. Then the trio, viz, accused 1 and 2 and Assistant Shroff, would sit together and start disbursements at about 2 P.M. Ramia would first call out the serial number, name and amount payable to each stipendiary from out of those whose signatures had been taken, one after another, from the Baravard. Subbanna and the Assistant Shroff would note down on separate pieces of paper, the serial number and amount paid. After this, the stipend would be put into a plate by the Assistant Shroff and the amount would be paid directly or through peon Venkataraya to the concerned stipendiary. This course of action would be

adopted till after all the stipendiaries present in the hall were paid, care however being taken to secure acquittances before payment. This would engage the trio till about 5 or 5-30 P.M.

Nature of defalcation prior to February 1926.

V. During the periods prior to 1926-'27, the amounts alleged to be payable to the 3rd accused, would be noted along with other fictitious amounts being wedged in and this aggregate sum would be made to appear as being due to the 3rd accused. Peon Venkatarayа was the messenger for receiving about half a dozen stipends and the amounts alleged to be due to them would also be noted in the two lists along with other spurious payments, intended to enrich Ramia and his accomplices. The amount made to appear as due to the 3rd accused would be sent to the 3rd through peon Venkatarayа.

Then the grand total of the day's payments outside the counter, would be struck both by the 2nd accused and the Assistant Shroff, on the basis of the lists prepared by them, and after they tallied, they would get information from the Head Shroff as to the quantum of the counter payments as some respectable Ursus, used also to be paid at the counter, on the first payment day. The Head Shroff would furnish the information and the 2nd accused would add to his total, the sum total of the amount paid at the counter and strike the grand total. Thereafter, the daily abstract would be written up by Ramia, at the end of the Baravard, classifying the several payments and to this both Ramia and Subbanna would affix their initials in token of its authenticity and correctness. Thereafter Ramia would take the Baravard to the account section to Accountant Rajagopalachar for necessary entries being made in the account section cash book. Rajagopalachar before accepting the figures in the Baravard would ask the Head Shroff regarding their correctness and after the assurance of the Head Shroff, would enter the figure in his cash book. The Assistant

Shroff would take the list prepared by him along with any balance left undisbursed out of the money brought from the counter and hand over both the list and money to the Head Shroff and satisfy the Head Shroff regarding the accuracy of the payments in the hall. Afterwards the Baraward would be taken by Remia to the Treasurer, who would compare the total of the entries in the abstract with the Shroff's cash book, and after he found that they both tallied, would initial it and keep the book with him.

Counter payments on three payment days.

As already stated there would be payments made to respectable stipendiaries, about 2 or 3 at the most, on days on which payments were made in the hall. The stipendiaries would send their messengers with a receipt to the Treasurer, if they did not appear in person, and the Treasurer would send a clerk or servant to get their stipends paid at the counter. The Baraward would be got from the hall, their signatures would be taken at a table about 2 yards from the counter within sight of the 3rd accused or his assistants and after acquittance was got in the counter room, the stipendiary would be paid by the 3rd accused. The Head Shroff or his assistants used to make contemporary or simultaneous entries either in his cash book or on a piece of paper as each payment was made by him at the counter. From about the beginning of 1926, the practice of the 3rd accused being paid in the hall the stipends due to him from his debtors, was given up and in lieu thereof we find the 3rd accused paying himself at the counter, by signing the Baraward, when the Baraward was brought to the counter. During subsequent payment days, payments would always be at the counter. The 1st accused, more often than not, though the Baraward Book was with Puttu Row, during business hours would attend in person; and on some occasions Remia would send a chit to Puttu Row, to cause payments to be made, at the counter. The same procedure regarding the signing of the Baraward was being

adopted on the subsequent payment days, as was the case on the first payment day.

Audit Register and its preparation.

VII. The Baraward would be taken away by Ramia, on or about the 25th of a month for preparing the next month's Baraward. The Baraward would be prepared by Ramia. The Audit Register which was really intended to check the entries of the previous month's Baraward with the entries of the Baraward for which payment was demanded, was not prepared by the Audit section, as it logically and rightly should have been done, but was allowed to be prepared by the Sheristedars of the Duftar section.

Anamoly in the preparation of the Audit Register.

We thus find that the officials responsible for advancing a claim and for the preparation of the bill were the identical officials who were allowed to scrutinize the validity of the claim, and prepare the Audit Register. This Audit Register was accepted to be a sufficient data or basis for allowing the claim by the Pre-audit section. This unsatisfactory state of affairs coupled with the other circumstances hereunder detailed, contributed materially to afford undue facility to the defalcators to perpetuate the fraud and embezzlement, without detection, for about seven long years and this has resulted in a total defalcation of about 84,000/- rupees.

Circumstances which gave occasion for facilitating the fraud and its commission without detection.

VIII. The unfortunate circumstances which afforded peculiar opportunity and facility to the miscreants to engage themselves in a conspiracy in order to embezzle monies from the Palace Treasury, month after month and year after year may be summarised as follows:

1. The Palace Comptroller and afterwards the Assistant Private Secretary were the drawers of the bill. So long as the drawer of the bill supervised the disbursements, fraud could not take place. After the drawer of the bill ceased to supervise and the

act of supervision came to be vested, in the very officials, who had to be supervised, by a process of delegation, the oppurtunity to commit fraud, naturally arose.

2. The Baraward of the month on which payment was demanded was not scrutinized or checked with the Baraward of the previous month to find out the accuracy of the entries noted therein. The total of the individual payments was not checked, struck, as per the acquittances in the Baraward. The said total was not tallied with the abstract total.

3. Though the enfacement order authorized payment of only current claims, yet the practice of permitting arrears to be paid, without a special sanction or a seperate list prepared therefor, was mainly responsible for enabling Ramia, to misappropriate various sums of money, month after month, under the head of arrears. The enfacement order should only have been for the total of the current claims minus the arrears outstanding.

4. Despite the fact of there being a pre-audit section, manned by a wellpaid Head Accountant, assisted by a tolerably large number of accountants, the absence of any valid reason for adopting a differential treatment to the Ursu stipends, was an importance circumstance to encourage the defalcation to go on with impunity.

5. The Audit Register pertaining to the Ursu stipendiaries, which ought 'rationally' to have been maintained by the Pre-audit section, was allowed to be prepared by the Duftar section (namely by Ramia and his accomplice Narahari). This irregularity was mainly responsible for the perpetration of the frauds to remain unnoticed.

6. The culpable derilictum of duty of the compilation section in not having taken timely care to notice the excess in regard to Ursu disbursements, and in not having brought the same to the notice of the authorities, did not in a small measure contribute to the perpetration of the fraud, to remain unnoticed.

7. The culpable indifference of the superanuated Palace

Treasurer, in not having checked on any occasion, the lists of Subbanna and the entries of the Shroff's book, with the actual acquittances in the Baravard, is immediately and directly responsible for having emboldened the miscreants to indulge in their acts of defalcation, without fear of detection. If the Treasurer, out of sheer curiosity, had made a scrutiny as above detailed, on any date, the fraud could easily have been found out at its very inception and could have been nipped in the bud.

8. The active connivance, nay, conspired action, of most of the Treasury cash section officials who were concerned in the payment or disbursement of Ursu stipends either on the first or subsequent days, was a circumstance that mainly contributed to the continuance of the fraud and for it to remain unsuspected or undetected for a number of years.

Disastrous consequences of the above state of affairs.

The above will, I hope, give a general outline of the working of the Treasury and of the Palace office, regarding the procedure that was adopted in the disbursement of Ursu stipends. Now I propose to deal with the 'modus Operandi' of the defalcation. It is interesting to note the psychology of the parties concerned in the fraud. It has upto now been possible to have only a test audit made from the year 1921-1922 to the close of the official year in 1925. The detailed audit for the years 1925-'26 and - 1926-'27 has been made. Out of the total sum of about Rs 84,000/- defalcated from 1921-'22 till June 1927, we find the defalcations going on unchecked, till atlast, we find that for a period of only 10 months, the total amount of defalcation for 1926-'27, comes up to the alarming figure of Rs 21,912/- and odd. This circumstance proves beyond all reasonable doubt that the persons concerned in the defalcation, got emboldened as time went on, and their cupidity to santoh at more booty, naturally got the better of them. They would perhaps have gone on, but for the prompt and businesslike action taken by Mr. Rama Rao, Pw$_1$.

Fraud - the result of conspiracy.

X. It does not require any detailed argument to substantiate the theory of the prosecution, that the defalcation traced to have been started in 1921-'22 as per present audit, continued to be perpetrated year after year, till the date of its discovery, in July 1927. This could only have been the consequence of a concerted action, or of a conspiracy as amongst the three accused now under trial with ofcourse the connivance and support of 'some others'. As to who these 'some others' are, it is unnecessary for the purposes of our present charge, to dilate upon. It is enough for my present purpose, if I place before this Honourable court, facts, figures, and circumstances, to prove beyond all reasonable doubt, that the long series of frauds are directly the result of a conspiracy or concerted action, of the three in the dock, and that the amounts embezzled and not accounted for, could not by any manner, be the consequences of a bonafide mistake or accident.

Defalcations in the hall.

Facts to support the theory of conspiracy.

In support of the theory of conspiracy, it would be convenient to deal with the several items, that I wish to deal with, in their order of time, so that we may be in a position to gauge the inner working of the minds of the persons concerned and also to trace the change of tactics adopted by the accused, for the accomplishment of their nefarious object. The earliest date, in the recorded evidence, on which it is urged that defalcation was committed, is 4-12-1922.

(a) Defalcation on 4-12-'22 and its peculiarities.

Exhibit P_{66} is the list of Subbanna and P_{67} is the Baraward concerned with the above. Now, if we examine the said list, we find that a sum of Rs 268/- is seperately totalled in a corner of the list, and this 268 is made up of two items of 258 and 10. Curiously we find that the last entries in the said list make up a total of Rs 268/-. Further scrutiny shows that this sum of Rs 268/

is made up both of spurious entries and valid payments made to the 3rd accused. It is interesting to note in this connection, that a certain amount of deliberation is bestowed in arriving at this figure. For we find a total of the payments made in the hall, before serial number 367 for Rs 27/- is inserted, and after the - insertion of Rs 27/- a total is again struck and thereafter a sum of Rs 10/- is added and again a total is finally struck. By the fact that in the corner of the list, the first total of Rs 258/- was noted and thereafter the sum of Rs 10/- is added to arrive at the total of Rs 268/-, one can easily study the cogitative mind of the persons engaged in this act. In this connection, it is necessary to note that the stipends validly due to the 3rd accused amounted to only Rs 83-8-0. Along with this amount an excess sum of Rs 185/- is included and passed off as being 3rd accused's due. The seperate entries of Rs 27/- and Rs 10/- adverted to above, and the addition of Rs 10/- to the seperate total of Rs 258/-, show - clearly that in the first instance, the amount that was intended to be defalcated was only Rs 148/- Certain considerations must have intervened and impelled the miscreants to supplement the - above defalcation by Rs 27/- and Rs 10/-. Another circumstance that strikes us, is, at this period of time, the accused were content with comparitively small sums of money as no defalcation at the counter is alleged by the Prosecution to have been committed. It is enough for the present to remind the court that the above items happen to be the last entries in the list. The inference that has to be drawn from this will be submitted later on.

(b) Defalcation on 3-9-'23 and its significance.

The next exhibit is P_{68} which is the list of Subbanna, and P_{69} is the Baravard pertaining to 3-9-'23. On examining the list we find that a sum of Rs 150/- is defalcated, by this item being wedged in, amongst the legitimate payments made to the 3rd accused, Below the entries pertaining to the alleged payments made to the 3rd, we find some entries which signify that payments were made to peon Venkataraya. In this payment to Venkataraya, we find the

same process being repeated and a sum of Rs 15/- is defalcated, by this item being introduced between the valid payments made to Venkataraya. These again are the last items in the list and the total amount defalcated is Rs 165/-, a comparitively smaller sum than those, we find to have been defalcated in the coming period. There is one other important circumstance which merits consideration and this is, that the 2nd accused has engaged himself in classifying payments made to Ursus and Kumars. This course of action, lends considerable support to the theory that the 2nd accused was conscious of his responsibility and that with a view to discharge such a responsibility, he noted the several heads of charge. Further, it is capable of being construed that the 2nd accused should have been a party, in the preparation of the classifications and for so doing, must have put his head together with that of the - first, to look into the individual payments made in the Baraward and thereafter to have manipulated figures to suit or tally with the total of the daily abstract, which is initialled by him, in token of its correctness.

(c) Defalcation on 4-3-'24 and its noticeable feature.

The third item has reference to the defalcation on 4-3-'24. P_{58} is Subbanna's list, P_{59} is the Baraward and P_{60} is the Shroff's cash book. The most noticeable feature in this day's transaction is that we find no defalcation of any kind in the hall. This signifies that there must have been some ~~impediment~~ reason for the abandonment of the usual tactics. Perhaps the presence of Ramaswamy - Shetty - the Assistant Shroff - (the uncle of the 3rd accused, who is admittedly on terms of illwill with the 3rd accused) must have been the chief cause for this change of tactics. So, we find that on this day, the 3rd accused takes on himself the sole responsibility to embezzle a sum of Rs 175/- at the counter along with the usual sum, viz, Rs 83-8-0, that was due to him as recoveries from stipendiaries, and sends information to the persons engaged in the hall that the amount paid by him, at the counter towards Ursu stipendi~~aries~~ was Rs 258-8-0. This sum of Rs 258-8-0 is added on by

Subbanna, to the aggregate payments made in the hall, with a descriptive note 'Key' to Rs 258-8-0. Out of this Rs 258-8-0 there is acquittance in the Baraward P_{59} for receipt of Rs 83-8-0 by the 3rd accused. These items are not found in the list of Subbanna. So, the inference that one is forced to make under the circumstances is that the 3rd accused had recourse to the same subterfuge which accused 1 and 2 adopted in the defalcation of 4-12-'22. Further, it is a point worth notice, that though the 3rd accused had paid himself admittedly Rs 83-8-0 at the counter, he does not choose to mention this in his cash book - Exhibit P_{60}. The 3rd accused on the other hand studiously avoids mentioning as two distinct items, the payments made in the hall and at the counter, with a view to render detection difficult. He contents himself in making one single entry of Rs 6,680-6-0 in his book. This course of action, betrays the anxiety on the part of the 3rd accused to leave no traces of his fraud behind. Furthermore, there remains one important circumstance, meriting notice in this day's transaction. From the incidents referred to on 4-12-'23 and 3-9-'23, we find that defalcations are closely connected with 3rd accused's payments, in the hall. If the 3rd accused were not a party in league with his accomplices - accused 1 and 2, the most natural course of conduct, that was to be expected of the 3rd accused, was to receive his payments along with others in the hall on 4-3-'24. But as the defalcation on that day could not be made in the hall, he studiously avoids his payments being entered in the hall, and pays himself at the counter, to facilitate a belief that the whole sum of Rs 258-8-0 was received by him at the counter and thus avoid the curiosity of any one, who might be inclined to know more about it. When once we bear in mind the fact that the 3rd accused had a peculiar facility to take monies home, from the counter room, without exciting any body's suspicion, by reason of his being the general lender to very many officials in the Palace and also to several stipendiaries, there is an explanation forthcoming, if really an explanation be necessary, as to why defalcations, were

closely interwoven with the payments made to the 3rd accused. Further, in all cases of defalcation, we find on the first payment day, as the above and subsequent incidents would show, that in the case of defalcations either at the hall or at the counter, such defalcations are closely mixed up with the amounts received by the 3rd accused.

(d) On 3-7-1924 sum defalcated is Rs 265/-

The fourth item for consideration is Subbanna's list, P_{64} dated 3-7-'24. The Baraward for the stipends paid in July 1924 is P_{65}. P_{63} is the cash book containing the entry of the day's transactions for 3-7-'24. On this date also we find spurious items being inserted between genuine payments made to the 3rd accused and Venkataraya. The total of the amount stated to be due to the 3rd accused, along with 3 fictitious items, comes up to Rs 392-8-0. This total of Rs 392-8-0 is shown, as a seperate entry in the list, marked as $P_{64(a)}$. Regarding Venkataraya's payment, we find that according to the Baraward, he has received only 5 payments, one of which is for Rs 41-8-0. But according to the list, in lieu of Rs 41-8-0, Rs 81-8-0 have been charged off, resulting in the defalcation of Rs 40/-. In the case of the 3rd accused, in lieu of Rs 167-8-0, he has been paid Rs 225/- in excess. On this date also, there is no defalcation at the counter and the fraud is committed in the hall and the money sent to the counter. This proves the concerted action of all the 3 accused in the act of defalcation. The total amount defalcated this day is Rs 265/-.

(e) Rs 380/- on 4-8-1924. We find seperate totalling of amounts defalcated by the 3rd and 1st accused.

Let us now deal with the fifth item, viz, of 4-8-1924. P_{61} is the list, P_{62} is the Baraward and P_{63} is the cash book. In this list, we find two detached entries of Rs 486-4-0 and Rs 229-4-0. The entry of 486-4-0 represents the total of the items shown to have been sent to 3rd accused. These items consist of 9 items, of which five are genuine payments amounting to Rs 106-4-0 to the 3rd accused and four fictitious entries amounting to Rs 380-0-0, making up the first detached total of Rs 486-4-0. The payments

made to the 3rd are the last entries in the list. The spurious entries are found noted between the true payments to the 3rd accused Immediately above these entries, are found noted some items stated to have been paid to Venkataraya and the total of these items is Rs 229/- and this is also entered seperately in the list. Further, the 2nd accused has classified the payments. The seperate totalling of payments made to the 3rd accused and to the 1st accused through Venkataraya, betrays a feeling on the part of the parties concerned, to know the specific sums defalcated under each head, in order to arrange for future adjustment. The classification as already stated, confirms the theory of the Prosecution that the 2nd accused was conscious of his responsibility and inspite of it, was a party to the fraud. For while classifying the amounts disbursed, he could easily have found that the actual amount paid, was far less than the amount shown as such, in the list. No defalcation is committed at the counter, except that the 3rd accused connives and coolly pockets the embezzled amount sent, as if the same was really due to him.

(f) Rs 500/- defalcated on 3-11-1924. Confined only to 3rd accused's payments.

The defalcation made on 3-11-1924 is the sixth item for consideration. P_{56} is the list, P_{57} is the Shroff's cash book and P_{88} is the Baraward for payments made in November 1924. We find the total of payments alleged to have been made to the 3rd accused, by spurious items being introduced amongst genuine payments, amounts to Rs 538-8-0. Out of this, the amount really payable to the 3rd accused was only Rs 38-8-0. Thus a sum of Rs 500/- is defalcated and this is received by the 3rd accused. Contrary to practice, payments to Venkataraya are noted after payments to the 3rd accused. In this day's transaction, it is interesting to note that the defalcation is confined only to the payments made to the 3rd accused. This is evidently due to the fact, that in as much as a tolerably large sum of Rs 500/- was defalcated, the defrauders did not venture to commit further fraud, in the payment of Venkataraya. Further, we find that the amount defalcated is gradually increasing and this

is evidently due to the fact of their deception remaining undetected

(g) Defalcation on 2-6-1925 - Rs 380/-. Note of amount brought for disbursement is noted.

The seventh item for consideration is the defalcation affected on 2-6-'25. P_{70} is the list and P_{71} is the Baraward. As usual the defalcation is made by squeezing in false items amongst genuine payments made to the 3rd accused and the total thus defalcated is Rs 380/-, curiously the same amount defalcated on 4-8-'24. The additional information furnished in this list is that the 2nd accused makes a note that a sum of Rs 8,250/- was brought for disbursement from the counter.

(h) Rs 650/- defalcated on 4-9-1925 regarding payments to 3rd accused and Venkataraya.

The eighth item has reference to the disbursements on 4-9-'25. Subbanna's list is P_{51}, Baraward is P_{52} and P_{53} is the cash book. On perusing the last entries in Subbanna's list, we find Rs 190/- being noted against number 16, while the stipend for this is only Rs 90/-. This sum of Rs 90/- has been acknowledged in the Baraward by the 3rd accused. Thus the amount defalcated under this item is Rs 100/-. The next entry is number 8. The stipend for this is Rs 150/- and this is paid to a person with a ☉ mark. This serial number 8 is falsely repeated in the list as having a stipend of Rs 250/-. Beneath this entry is the double entry of serial number 52. In respect of this serial number 52, Rs 200/- is shown as having been adjusted for deposit in the enfacement order and also deducted as such in the Baraward. Inspite of this, a second entry is made and number 52 is falsely entered and against this item, a sum of Rs 200/- is shown as having been disbursed. Below this number 52, are noted serial numbers 321, 333, 361, 410 and 425, the stipends of which were all payable to the 3rd accused and are acknowledged by him in the Baraward. Thus we find that between the items paid to the 3rd accused, spurious items are smuggled in, and thw whole is made to represent the amount due to the 3rd and sent to him. We therefore find a sum of Rs 550/- being defalcated in respect of 3 items to enrich the 3rd accused. Below

the last entry of Rs 425/- paid to the 3rd accused, come the entries paid to Venkataraya. This begins with a bogus payment of Rs 100/- against serial number 14, which had been credited already towards deposit and underneath this item, comes a payment of Rs 24-8-0 to Venkataraya. From the above we find the defalcation which upto now was limited to Rs 500/- or thereabouts on the first payment day, rises to Rs 650/-. No defalcation is made at the counter, for at this period of time, the 3rd accused was content with causing embezzlements to be made in the hall, through his accomplices and was conniving at defalcations made by accused 1 and 2 and the Assistant Shroff, then present. On a further scrutiny of the list, we find the 2nd accused entering the classification of stipends and striking a total of the payments made in the hall. Below the said total, we find three seperate items, consisting of Rs 1,462-8-0, Rs 314-3-0 and 290-9-0 being entered and added on to the total amount in the hall. It is interesting to note in this connection that these items are seperately noted in the Shroff's cash book as Exhibit $P_{53(a),(b),(c)}$. Thus at about this period the practice of noting details of the stipends paid across the counter was adopted and this wholesome practice was for obvious reasons, given up, when the 3rd accused began to defalcate large sums of money at the counter alone, on the first payment days.

(i) Rs 900/- defalcated on 3-11-'25 by the 3rd and a seperate total of Rs 988-12-0 noted.

Ninthly, we shall deal with the first payment day in November 1925, viz, 3-11-1925. Exhibit P_{54} is the list, P_{55} is the Bareward. In the list of Subbanna, we find the following items as the last entries in the list yielding a total of Rs 988-12-0.

Serial number	14	--	Rs 75- 0-0	acknowledged by the 3rd.
" "	118	--	Rs 250- 0-0	spurious payment.
" "	12	--	Rs 100- 0-0	spurious
" "	50	--	Rs 200- 0-0	spurious
" "	301	--	Rs 350- 0-0	spurious
" "	320	--	Rs 3- 0-0	acknowledged by the 3rd in the Barewards.
" "	356	--	Rs 6- 4-0	" " "
" "	405	--	Rs 4- 8-0	" " "
Total.		--	Rs 988-12-0	

Out of the above total of Rs 988-12-0, valid payments due to the

3rd accused come up to only Rs 88-12-0. Balance of Rs 900/- is the amount defalcated by the 3rd accused. At a corner of the list we find the figure 8,050/-, evidently referring to the usual amount brought by the Assistant Shroff for disbursement at the counter. To this 8,050/- is added the above noticed Rs 988-12-0 and a total for Rs 9,038-12-0 is struck. From this is deducted Rs 7,861-15-0 which represents the total of disbursements in the hall. Another calculation is made by deducting Rs 7,861-15-0 from 8,050/- and the balance of Rs 188-1-0 is struck. Further we find Rs 191-4-0 being the stipend paid to Chennappaji Urs at the counter is added to the day's total of Rs 7,861-15-0, making an aggregate total of Rs 8053-3-0 which tallies with the single entry in the cash book marked as P_{53d}.

The above calculations have their own tale to tell. By sheer inadvertence, the 2nd accused adds up Rs 988-12-0 to 8,050/- and from the aggregate sum of Rs 9,038-12-0 deducts Rs 7,861-15-0 and finds that Rs 1,176-11-0 should be with the Assistant Shroff, undisbursed, as per the above calculation. He finds out his mistake immediately, as the Assistant Shroff must have informed him that the sum undisbursed as per their list was not Rs 1,176-13-0 but only Rs 188-1-0. Then he proceeds to deduct the alleged payment of Rs 7,861-15-0 from 8,050/-, the sum brought from the counter and finds a sum of only Rs 188-1-0 remaining as per the list. At this juncture, we find an addition of Rs 191-4-0 to the total of the hall payments and a total of Rs 8,053-3-0 is struck. This total of Rs 8,053-3-0 is admittedly Rs 3-3-0 in excess of the amount brought from the counter. By the absence of any entry being made in the list of having supplemented the original sum of Rs 8,050/-, coupled with the absence of any serial number being given to the item of Rs 191-4-0, the presumption that this stipend of Rs 191-4-0 was caused to be paid at the counter, becomes irresistable. Again we find that in this list, the 2nd accused, classifies the several payments.

(j) Defalcation on 3-2-'26 Rs 785 plus 108 or Rs 893.

The last item in support of the theory of conspiracy

3-2-1926. $P_{.49}$ is the list and P_{50} is the Baraward. On perusal of the list, we find the usual spurious items being smuggled in between the payments properly due to the 3rd accused and also to Venkataraya. As usual, these items form the last entries in the list. On further scrutiny we find the undernoted entries :-

Serial no ,	319	-- Rs	150- 0- 0	Rs 15/- only actually due to 3rd and acknowledged by him in the Baraward.
" "	333	-- Rs	3- 0- 0	paid to the 3rd and acknowledged by him in the Baraward.
" "	361	-- Rs	6- 4- 0	
" "	411	-- Rs	4- 8- 0	
" "	18	-- Rs	350- 0- 0	This is a double entry. No., 18 has been already paid its stipend of only Rs 63-5-0 and acquittance obtained.
" "	12	-- Rs	100- 0- 0	Falsely shown as paid though in the Baraward, this sum is actually deducted for deposits.
" "	51	-- Rs	200- 0- 0	Double entry and a fictitious item of expenditure is shown
	Total	-- Rs	813- 12-0	
Serial no.,	51	-- Rs	81- 8-0	correct payments paid to peon Venkataraya and acknowledged by him in the Baraward.
" "	73	-- Rs	22- 8-0	
" "	435	-- Rs	22- 8-0	
" "	107	-- Rs	108- 0-0	- spurious payment.
	Total.	--- Rs	234- 8-0	

From the above we find that the 3rd accused is given Rs 813-12-0, in lieu of Rs 28-12-0 only actually due, or Rs 785/- in excess. Peon Venkataraya is given Rs 234-8-0 when he was entitled to receive only Rs 126-8-0. Thus a sum of Rs 108/- is paid in excess. The total defalcation in the hall on the above date is Rs 893/-. Now bearing in mind the evidence of Chengia Shetty, Ramaswamy Shetty, and peon Venkataraya, to the effect that amounts alleged to be due to the 3rd and amounts alleged to be payable to Venkataraya, were only taken into account after the day's disbursements were over, in the hall, and after naturally the stipendiaries had left the hall, we find clear proof of a concerted action, on the part of the accused 1 and 2 and the Assistant Shroff on duty then, to commit defalcation at the hall, with the dishonest intent to profit themselves and the 3rd accused. That the 3rd accused, though perhaps not present in the hall, at the time of the above manipulations, was a conspiring

party in the above noted acts of defalcation, is made manifest by the simple fact that he solly receives sums of money not legitimately payable to him. The complicity of the 3rd is made apparent, by the indident of 4-3-'24, when, by reason of facility not being afforded for defalcation at the hall, he takes upon himself the act of defalcation and sends information to the hall, that he has paid himself Rs 258/- at the counter, as if the same was due to him from the stipendiaries. The explanation offered by the 2nd accused in the course of his explanatory statement given before court, after charge, on 28-11-'27, completely bears out the propriety of the above observation and this again is proved beyond all reasonable doubt, by the explanation which the 2nd accused offered, in respect of the significance of the word ' Yes '

Change of place of defalcation on first payment day from hall to counter from 3-9-'26.

Let us now consider the incidents subsequent to 3-9-'26.

1. We notice that on first payment days, the fraud that used to be committed usually outside the counter, is committed at the counter itself under the direct control of the Head Shroff.

2. The frauds on subsequent payment days continued as of old to be committed at the counter, by the 3rd accused.

3. This significant circumstance proves in a remarkable manner that the 3rd accused must have felt certain that the frauds would not be detected and that he may with impunity embezzle larger sums of money.

4. Further, we find the fraud that used to be committed along with the payments to Venkataraya, has entirely ceased, except on 4-5-'27 by which date, we providentially find that no fraud is committed on the 1st payment date as 2-4-'27 is the last date, on which fraud is committed.

5. The cessation of fraud intermixed with Venkataraya's payments, proves in a convincing manner, that the parties to the fraud, - should have thought this method of deception, unnecessary, as - larger sums of money were being defalcated, by the 3rd accused along with stipends due to him, for the common benefit of himself

and his accomplices.

6. If the 3rd accused was not an active participator or accomplic in the frauds through Venkataraya, Ramia, Subbanna and the Assistant Shroff, would certainly not have let go the oppurtunity to enrich themselves.

7. When the place of deception is changed from the hall to the counter, we find a thorough change of tactics. The 3rd accused, in a bold and reckless manner, feels secure, and with the hope that the fraud would become more difficult for detection, adopts the method of showing only a lump sum, without any detail whatsoever in the list of Subbanna, and graduâlly adopts the same method in his cash book also.

Illustrations in support of the above observation.

The above observations will be exemplified by a consideration of the undernoted incidents :-

(a) Take the incident of 3-9-'26. On this date we find the total amount of defalcation is Rs 1,330/-. This is made up of 2 items, viz, Rs 230/- and Rs 1,100/-, as per the entries in Exhibit P_{21} - the cash book - P_3 is the list of Subbanna and P_8 is the Baraward.

(b) The defalcation is at the counter and the defalcation of Rs 1,100/- is intermixed with a sum of Rs 75/- received by the 3rd accused. It is interesting to note the alteration of zero in 1,100 into the canarese figure 7. This alteration, coupled with the surreptitious taking of 11 currency notes of Rs 100/- each, as per the entry in currency note register $P_{22(b)}$, affords us a clue as to the inner working of the 3rd accused's mind. Having, without any justification whatsoever, taken 11 notes, he automatically begins to make a false entry for Rs 1,100/-. Then evidently the feeling that the insertion of Rs 1,100/- would be conspicuously noticed, when placed alongside with the taking out of 11 notes,, he includes a sum of Rs 75/- received by him, on behalf of a stipendiary (serial no., 15) and thereafter alters the zero into the canarese

figure 7. This alteration is patent when this 7 is compared with the other sevens written by him in the same page. Immediately below this entry is an entry of Rs 7-8-0 which is made up of Rs 4-8-0 and Rs 3/- received by him from two stipendiaries. Thus though the total of stipends received by him, on 3-9-'26 was Rs 82-8-0, he finds it easier to alter the zero into 7, than to alter the zero into canarese eight.

On 4-10-'26 defalcation is Rs 1,100/.

(c) We find on 4-10-'26 as per the list P_{54} and P_{21}, cash book, and P_{31} Baraward, the defalcation is Rs 1,100/- 10 notes of Rs 100/- have been taken out without any justification whatsoever, at the close of the day's transaction, evidently to facilitate the removal of the amount defalcated.

on 3-11-'26 amount defalcated is Rs 1,141/-
plus Rs 200/- in the hall.

(d) On 3-11-'26, as per list P_{51} Baraward P_{32} and cash book P_{21} the amount defalcated at the counter is Rs 1,141/-. It is necessary to note that on this date, the accused, pays himself a sum of Rs 95-8-0 as being payable to him from four stipendiaries. Thus the total amount that had to be removed from the counter was Rs 1,141/- plus Rs 95-8-0 or Rs 1,236-8-0. In order to enable him to take the money with convenience, he takes away 12 notes of Rs 100/- each under the pretence of having given the said notes to one L. Narayanasetty and makes an entry in the note register Exhibit P_{30}. This entry is the last entry for the day, in the note register. In addition to the above defalcation at the counter, we find the old type of fraud being repeated by the trio in the hall, by fraudulently appropriating a sum of Rs 200/- adjusted towards deposits.

Rs 1,100/- defalcated on 5-1-'27.

(e) On 5-1-'27, we find a defalcation of Rs 1,100/- as per Exhibit P_6 list, P_{18} Baraward and P_{21} cash book. The amount received by the Srd towards stipends is Rs 107-8-0. The total sum that must have been removed from the counter is Rs 1,207-8-0. If we bear in mind, the evidence of Mr. Venkatasubbia, Manager of the Private Secretary's office, and the ommission to note the numbers of notes received from the said office in the note register, an explanation

is forthcoming as to why the 3rd accused found no necessity to take 100 rupee notes from the treasury on this date.

Rs 1,407-12-0 defalcated on 2-4-'27. Subject matter of the charge both at counter and hall.

(f) 2-4-'27 is the date, on which a sum of Rs 1,407-12-0 was defalcated both at the counter and in the hall. This item of defalcation is the subject matter of the present charge. Exhibit P_7 is the list, P_{19} is the Baraward, P_{21} is the Shroff's book and P_{30} is the note register. It behoves on us, to examine with considerable care, the details of the fraud pertaining to this date. In the Shroff's cash book, P_{21}- we find only two entries, viz, Rs 125-14-0 and Rs 9,668-7-0, having reference to Ursu disbursements. The sum of Rs 125-14-0 entered in the Shroff's book, without any detail, is merged in the sum of Rs 1,095-6-0, which is added on to the total payments in the hall, as per P_7 Subbanna's list. The words ಎಸ್ written by Subbanna, against this item of Rs 1,095-6-0 is an additional circumstance to bear out the assumption that out of this sum, a sum of Rs 125-14-0 was disbursed to Mr. A. Chamappaji Urs at the counter, by reason of the serial number given to Mr. Chamappaji Urs is not found in the list of Subbanna. So deducting Rs 125-14-0 from Rs 1,095-6-0, we get Rs 969-8-0. In this sum of Rs 969-8-0, we find by a reference to the Baraward P_{19} that 3rd accused has received a sum of Rs 19-8-0 at the counter and paid Rs 19-12-0 at the counter to one stipendiary by name L. Kante Urs. That these amounts amounting in all to Rs 39-4-0 was paid at the counter and not in the hall, is made clear, by the absence of the serial numbers pertaining to the concerned stipendiaries, ~~in not finding a place~~ in Subbanna's list. Thus after deducting Rs 39-4-0 from Rs 969-8-0, we get Rs 930-4-0. This sum represents the amount of defalcation by the 3rd accused directly at the counter. On this date, we find defalcation being committed to the extent of Rs 477-8-0 in the hall, by the trio, who sat for disbursement, on that date. These are accused 1 and 2 and either Chengia Setty or Gopalakirshna setty. That this item of defalcation was fully within the knowledge of the 3rd accused, may, was the result of his active co-

operation and concerted action, is evidenced by an important circumstance. We find that on this date a remittance of Rs 25,000/- was got from the District Treasury. Out of these, 100 were in 100 hundred rupee notes, and the balance were in notes of smaller denomination. The third accused wilfully omits to note the numbers of the hundred rupee notes received from the District Treasury, as per his want and obligation, but contents himself to account for the 100 hundred rupee notes received, by stating in the note register Exhibit P_{30} that 60 hundred rupee notes were utilized for disbursements of Ursu stipends, 20 notes were given to one Chennagiriya He notes down however the serial numbers of the remaining 20 notes only. It is now my purpose to prove, from all stand points, that because the 3rd accused was directly concerned in the total defalcation of Rs 1,407-12-0 committed on this day, he adopts a most inconsistent attitude and offers an untenable and unconvincing explanation regarding the incidents of this date. The explanation of the 3rd accused, when asked to explain as to the necessity for using or sending 60 notes to the hall is, that there was no cash in the treasury that day and that therefore he had to anxiously wait for the receipt of 100 notes from the District Treasury, in order to meet the demand of Ursu disbursements and of Chinnagiriaya. But this explanation is palpably false for the under noted reasons:-

(1) The opening balance of treasure in the Palace Treasury on 2-4-1927 consisted of 43 notes of 100 rupees each, 145 notes of Rs 10/- each, 2 of Rs 50/- each, 1,209 of Rs 5/- each, one note of Rs 500/-, 12,960 in whole rupees and other small coins of about Rs to Thus there were available for use Rs 12,395 in currency notes of various denominations and Rs 12,000 in whole rupees. The amount of total disbursements towards Ursu stipends, accepting for a while, even the inflated figures, alleged to have been disbursed, both at the counter and hall, is Rs 9,794-5-0. Thus the total expenditure for the day is Rs 33,225-3-5. The total receipts during the day is Rs 820-2-0.

(2) If really the explanation offered by the 3rd accused that

there were no rupees in the Palace Treasury be true, then the most natural course of conduct that would be expected of the 3rd accused to adopt, was to indent for whole rupees and notes, to make up the total indent for Rs 25,000/-. Curiously we find the indent was only for currency notes and not for a single rupee. The entries regarding receipt of money from the District Treasury, in the Shroff's cash book acknowledged receipt of only currency notes and not rupees. So apart from the treasure as opening balance that was available for expenditure that day there are other important circumstances which falsify the explanation offered by the 3rd accused.

(3) By a careful scrutiny of the amounts of stipends paid to individual stipendiaries, that day, we find that even after making an indulgent calculation, there could reasonably be an occasion for the use of only 49 hundred rupee notes and by no manner of calculation for 60 notes. In this connection, it is interesting to scrutinize the Baraward. We find there are only about 28 stipendiaries who received a stipend of Rs 100/- or over. On 2-4-'27, gentlemen who receive stipends of over Rs 100/- and who were paid that day are 22. If each and every stipendiary, belonging to the above category is paid in one hundred rupee notes, for Rs 100/- or every multiple of hundred, the largest number of notes that would be required would be only 43. Even assuming for the sake of argument that stipendiaries who had to receive stipends of Rs 50/- and over, brought money with them to make up Rs 100/- in order to have the luxury of taking from the Palace office a currency note for Rs 100/- after paying to the treasury the balance to make up Rs 100/- as already stated, 6 more notes could be used. It is ludicrous to suppose that stipendiaries who came to the Palace for receiving their stipends, which in the overwhelming majority of cases, does not come up to 2 figures, should have been paid in hundred rupee notes, to make up the sixty above referred to.

(4) Furthermore, we find by a scrutiny of the note register Exhbit P_{22} and P_{30} that it has been an invariable rule, in the Palace Treasury to issue notes in stock, in their order of receipt

in the note register. If really 100 rupee notes were found necessary for Ursu disbursements, there is no explanation forthcoming as to why the 43 hundred rupee notes in stock that day were not issued. Even assuming that out of the 43 notes, 20 notes were issued to the office of the Private Secretary, at a period of time earlier than the one at which Ursu stipends disbursements began, there were still 23 notes available for use - not to mention of the 2½ notes of Rs 50/- each, 145 of Rs 10/- each and 1,209 of Rs 5/- each, available for use that day. Again we find that out of the remittance of Rs 25,000/- got from the District Treasury, only Rs 10,000/- were in hundred rupee notes and the rest, viz, 15,000/- were in notes of smaller denomination. If matters were above board, there was nothing to prevent the 3rd accused, to send the 23 hundred upee notes and the rest in smaller notes and coins, for disbursement to Ursu stipendiaries.

(5) The above circumstances, coupled with the fact that the 3rd accused, for reasons not difficult to see, wantonly and with a dishonest motive, failed to note the numbers of the hundred rupee notes, and proceded to make a vague and an arbitrary entry that 60 out of 100 received were issued for Ursu disbursements, betrays the guilty mind of the accused and his anxiety to leave no traces of his fraud behind.

(6) The disappearence of 14 hundred rupee notes, is closely connected with the total amount of defalcation that day. This disappearence, proves in a very convincing manner that the agency for the frauds committed both at the counter and in the hall, was centered in one individual and that this individual was the Head Shroff - the 3rd accused. In fine, it may safely be assumed that if one is interested in detecting frauds practised in the Palace Treasury it only remains for him, first to find out where the 3rd accused has been paid and then to see how the 3rd accused has had recourse to subterfuges to commit and conceal the frauds committed by him and by his co-conspirators.

Fraud on subsequent days.

Thus far. I have dealt with first payment days. Now let me examine the disbursements made on subsequent days. On these days payments are admittedly made at the counter, by the 3rd accused or by any one of his assistants, after the 3rd accused or his assista satisfies himself that the payee signs in his presence in the Baraward.

(a) Rs 700/- defalcated on 5-2-1925.

While dealing with defalcation on subsequent days, let me first refer to the incident of 5-2-1925. Shroff's cash book is P_{57} and Baraward is P_{79}. The total amount charged off both in the cash book and the Baraward abstract is Rs 1,385-2-0. But the actual disbursement made on this date, as per the acquittance in the Baraward is Rs 685-2-0. Thus a sum of Rs 700/- is defalcated. It is noteworthy to find that this entry in the cash book is made at the close of the day's transactions, by the 3rd accused, and the 3rd accused betrays his anxiety to oust his assistant Gopalakrishna Shetty, who had till then transacted at the counter and had written up the cash book uptill then. evidently with the object of settling with 1st accused Ramia, as to the amount that was to be defalcated and to be inserted as having been disbursed, at the counter, in his own cash book and in the day's abstract.

(b) Special features of 7-7-1925. Re- the insertion of Rs 707-1-0. Amount defalcated is Rs 200/-

The incident of 7-7-'25 merits special notice. P_{53} is the cash book and P_{76} is the Baraward. Amount charged is Rs 707-1-0. Amount actually paid is Rs 507-1-0. Amount defalcated is Rs 200/-. The cash book entries pertaining to the above date, are found at pages 152 and 153. It is a significant circumstance to note that the 3rd accused writes the words '[illegible]' and with a dishonest intent aboids noting the amount paid, evidently leaving it blank, to be filled up, at the close of the day's transactions, in consultation with the 1st accused. The above inference becomes

irresistable when we examine the entries on page 153. We find the 3rd accused striking two running totals regarding payments made both above the entry 'ಅಂಬಾಳಿಗೆ' and of those below; and notes a third total of Rs 8,399-1-4 as the last entry in the book. These totals do not take into account the sum of Rs 707-1-0 alleged to have been paid for Ursu stipends. It is only after the third total is struck, he adds Rs 707-1-0 to it and arrives at the grand total of Rs 9,106-2-4. This circumstance proves clearly that at the time when the 3rd accused wrote the words 'ಅರಸುಳಿಗೆ' he designedly left the column blank, where he ahd to note the amount paid and did so, only after the day's transactions were closed. This incident in a very pointed manner, lays threadbare, the dishonest intent of the 3rd accused and his complicty in the defalcations in conjunction with the 1st accused. Further, when viewed with the fact that the 3rd accused is found to have made seperate entries on various dates, regarding disbursements of Ursu stipends, as they were made, there is a noticeable want of any reasonable explanation, as to why, the same procedure was not adopted in this instance, and as to why, the entry regarding the amount disbursed, should have been deferred, till after the day's transactions were closed, and as to the necessity to make a contemporaneous entry in his cash book, with the entry made by the 1st accused, in the daily abstract, except it be that he wanted to determine the amount, after consulting Ramia.

(c) Amount defalcated on 7-8-1925 is Rs 500/-

The third item is of 7-8-1925. Exhibit P_{53} is the cash book and P_{78} is the Baraward. Total amount charged is Rs 1,155-8-0. Total amount actually disbursed is Rs 655-8-0. Amount defalcated is Rs 500/-. There is a single entry of Rs 1,155-8-0 in the cash book, and this is the last but one entry in the cash book, written by the 3rd accused. It merits notice that except the last two entries, all the above entries are in the handwriting of Chengia Shetty - Assistant Shroff. The 3rd accused for reasons not difficult to gleam, takes up the cash book, and notes down the entry relating to Ursu stipends, which as above stated, reveals a defal-

sation of Rs 500/-. Further comment on this matter is superfluous.

(d) Rs 600/- defalcated. Seperate entries in cash book for Ursu payments on 5-11-'25.

The incident of 5-11-'25 is helpful to prove that the 3rd accused was in the habit of noting individual payments made towards Ursu stipends in more entries than one as there are 5 seperate entries in the cash book. P_{53} is the cash book and P_{55} is the Baraward. Amount charged off is Rs 2,475-14-0. Amount actually paid is Rs 1,875-14-0. Amount defalcated is Rs 1,875-14-0. Amount defalcated is Rs 600/-.

(e) Defalcated Rs 525/- on 5-3-'26. Alterations in the cash book.

The fifth item, under the head of defalcations, on subsequent days, on which the 1st and the 3rd were directly concerned, has reference to 5-3-1926. Cash book is P_{39} and Baraward is P_{75}. Amount charged in the cash book and Baraward abstract is Rs 1,282-12-0. Amount actually paid is Rs 757-12-0. Amount defalcated is Rs 525/-. There are 6 entries in the cash book marked as $P_{39(b\ to\ g)}$. Of these entries, $P_{39(c)}$ merits special consideration. This entry as it stands after alteration is Rs 829-4-0. In the figures 829, we find a clear alteration of the canarese figure 3 into 2 and the canarese figure zero is altered to 9. The significance of this alteration is made clear when we examine the days disbursements, even according to the entries in the cash book. We find in the cash book, the following entries:- (1) Rs 344-8-0; (2) Rs 50/-; (3) Rs 17/- ; (4) Rs 829-4-0 ; (5) Rs 14/-; and (6) Rs 27/-. 1,2,3,4,5, and 6, are accounted for in the Baraward. Out of Rs 829-4-0, a sum of Rs 304-4-0 is accounted for by acquittance in the Baraward Thus when the 3rd accused in collusion with the 1st accused, settled upon the Quantun of embezzlement, he proceeds to alter the first digit 3 in 304 to 2, erases and alters zero and 4 to 9 and affixes the figure 8 behind the altered 2. This incident is closely similar to the incident of 3-9-'26, where also marks of alteration are discernable, when an excess charge of Rs 1,100/- was desi-

designedly made. Beyond finding a defalcation of Rs 750/- on 6-4-1926 there is nothing of special of special significance in the trnasaction of this date.

(f) On 6-4-1926 sum defalcated is Rs 750/-

The 3rd accused has written the whole of the cash book. The amount acknowledged in the Baraward as per P_{77} is Rs 984. The sum charged is Rs 1,734/-. The amount defalcated is therefore Rs 750/-. There are two entries in the cash book Exhibit P_{39}, viz, one for Rs 1,487-4-0 andthe other for Rs 246-12-0. Total is Rs 1,734/-.

(g) On 7-7-1926 sum defalcated is Rs 100/-

The amount disbursed is only Rs 128-8-0 as per Baraward P_{38}. The amount charged is Rs 228-8-0. Two persons are paid this day. One is Krishnasastry who has received Rs 50-8-0 for serial numbers $\frac{1}{0}$, $\frac{28}{0}$ and 72. The other is 1st accused's peon Venkataraya, who has received Rs 78/- on behalf of stipendiaries given serial numbers 68,73,140 and 255. Total is thus only 128-8-0. In the cash book P_{39} we find a single entry of Rs 228-8-0 in the handwriting of the 3rd accused, without any details whatsoever. It is noteworthy to find that all the entries of the day's transactions previous to this entry is in the writing of Chengia Shetty - the Assistant Shroff. This entry and a few more entries are made by the 3rd accused and thereafter the cash book is handed over to Chengia Shetty to transact the day's transaction.

(h) On 12-8-1926 defalcation is Rs 174-8-0

Amount paid is Rs 9/- to one Basavaraj Urs against serial numbers 282 and 283. But the amount charged is Rs 183-8-0. Thus a sum of Rs 174-8-0 is defalcated by the unscrupulous third accused, in conjuncture with his associate Ramia - the 1st accused, as she is the man that has written the day's cash book from start to finish and it is ludicrous to suppose that he was not aware of the day's payments, so as to make the palpably false entry of Rs 183-3-0 when only a sum of Rs 9/- had been paid to a single stipendiary.

(i) The third accused on 5-11-'26, 4-12-'26, 6-1-'27 and 5-2-'27 and 5-4-'27 has sat at the counter, on the above dates of subsequent payments of Ursu stipends and defalcated Rs 519-8-0, Rs 417/-. Rs 750/- Rs 700-8-0 and Rs 600/- on the above respective dates. I do not propose to deal in detail regarding the details of the fraud on the above noted dates, for the simple reason that the frauds are patent and are not borne out by the acquittances in the Baraward. So, I propose to deal only with such of these defalcations on subsequent days which betray some overt acts on the part of the 3rd accused and which in a very convincing manner prove his fraudulent intent.

(j) On 9-12-1926 sum defalcated is Rs 150/-

On the above date amount paid as per acquittance in the Baraward P_{41} is Rs 148-2-0. Sum charged by the 3rd accused is Rs 298-2-0. Amount defalcated is Rs 150/-. In order to commit the above fraud, the 3rd accused takes the cash book P_{21} from the hands of his Assistant Chengia Shetty, who was writing the accounts uptill then and then proceeds to note a third entry for Rs 169-8-0 Exhbit $P_{21(j)}$ towards Ursu stipends when only a sum of Rs 19-8-0 had actually been paid to one Basavaraj Urs. There are besides the above two more entries made by Chengia Shetty, one for Rs 57-8-0 and another for Rs 71-2-0. These two payments are supported by acquittances in the Baraward. Even assuming for the sake of argument that Chengia Shetty's payments are bogus and thus eliminate them from consideration, the sum acknowledged in the Baraward is only Rs 148-2-0. So, the entry for Rs 169-8-0 written by the 3rd accused is palpably a false entry. Moreover, Rs 71-2-0 represents payments made to one Muddaraj Urs regarding serial numbers 32 and 37.

(k) On 7-1-1927 amount defalcated is Rs 250/-

Amount charged is Rs 502/-. Amount actually disbursed is Rs252/-. The distinguishing feature in this day's transaction is that there are four seperate entries regarding Ursu stipends, viz, for Rs 131-8-0, received by one individual regarding serial numbers 22 and 54; Rs 103-8-0 paid to serial number 9; Rs 17/- to serial number 241 and 421 paid to one individual. All the above three

payments aggregate to Rs 252/- and this is borne out by the acquittance in the Baraward Exhbit P_{18}. After making the above true payments, the 3rd accused makes a fourth bogus entry to defalcate a sum of Rs 250/- It is interesting to note that on this day, Ramia, the 1st accused, thoughn not paid anything as per the cash book, has however received two notes of Rs 100/- each, as per the entry $P_{30(e)}$ in the notes register.

(l) On 4-3-1927 sum embezzled is Rs 250/-

Amount charged is Rs 259/-. Amount paid, even if accepted to be true is only Rs 9/- towards serial number 200, to peon Venkataraya. Thus the sum of Rs 250/- remains unaccounted for. It is the 3rd accused who has written this entry in the cash book $P_{21(m)}$. It is indeed too much for any sceptic mind to assume that the 3rd accused could have innocently made the above false entry in his cash book. In this connection, I am constrained to observe that even payment to Venkataraya is not above board, as the stipend to the particular stipendiary is shown in the coming months Baraward as not paid.

(m) On 8-3-1927 amount defalcated is Rs 179-8-0

Amount charged as per $P_{44(c)}$ Baraward and cash book P_{21} is Rs 348-8-0. Amount actually disbursed as per P_{44} Baraward is Rs 169, Amount defalcated is Rs 174-8-0. In this day's defalcation, the entries that merit notice are two in the Shroff's book. The 1st entry runs as follows:-

" Rajabandhus "

In the column where the amount disbursed is invariably noted, the space is left blank. After this entry, there are a few entries relating to transactions other than those pertaining to Ursu stipen The 2nd entry is made regarding payment of stipends to Ursus and a sum of Rs 171-4-0 is noted. This figure 171 bears clear marks of alteration. The figure 275 has been altered to 171. Thus we find the first digit 2 is altered to 1, the second digit 7 remains unaltered and the third digit 5 is altered to 1. The two altered digits are perceptibly in a different ink. The alteration is made

with a dishonest intent and this is evidenced by the under noted circumstances:-

1. There are four entries regarding Ursu stipends noted seriatum in the cash book These are:-

firstly an entry relating to the payment of Rs 2-4-0
secondly the above referred blank entry
thirdly the figure 275 altered to 171-4-0
fourthly and lastly an entry relating to the alleged payment of Rs 175/-

2. There is absolutely no reason as to why there should have been a blank entry. For as admitted by the accused himself, entries are not made in advance, but only when payments are made and that in the order of their payment. So some of the stipendiaries who have received payment that day, should have come and the 3rd accused must have paid the stipend but designedly, must have refrained from noting the amount paid, for facilitating his fraud at the close of the day's transactions.

3. As stated above, out of the total payment of Rs 169/- as per Baraward, a sum of Rs 2-4-0 was paid as per the 1st entry. Balance of Rs 166-12-0 is made up of 11 items. Of these, three items, viz, serial numbers 309, $\frac{318}{0}$ and $\frac{318}{0}$ make up Rs 100/-. The remaining 8 items make up a total of Rs 66-12-0. When the 3rd accused paid the above noted Rs 100/- the thought to defalcate Rs 175/- should have taken possession of him, with the result we find the false entry of Rs 275/- being noted by him. At this juncture, the 3rd accused, as often happens in cases of fraud, unwittingly in his cupidity to defalcate, lost sight of the 2nd entry left blank. For if he had noticed this, there was nothing easier for him than to have filled up the blank and appropriate the amount wanted. But miscreants as we often find, inspite of all their shrewdness, do overreach themselves, as was the case in a like instance, adverted to already, in connection with the defalcation on 7-7-1925. Thereafter we find from the Baraward, an additional payment of Rs 66-12-0. After this, the 3rd accused, again loses sight of the blank column and evidently with a view to amalgamate the payment of Rs 66-12-0 with

the entry of Rs 275, begins to alter the canarese figure 275. If 275 be added to 66-12-0, the third digit in the rupee solumn will be 1, and the total will be Rs 341-12-0. After altering canarese 5 into 1, he finds it difficult to alter canarese 7 into canarese 4 and so elects to keep the 7 intact and proceeds to achieve his nefarious object by altering the 1st digit 2 into 1 and proceeds to make a seperate entry for an alleged payment of Rs 175. He evidently feels for no way disconfited for having secured a booty of Rs 4-8-0 in additionttoRs 175/- originally intenaed to be defalcated.

(n) On 4-4-1927 defalcation is Rs 100/- only one payment.

Amount charged in the cash book P_{21} and daily abstract P_{19}(c is Rs 414-7-0. Amount really disbursed is Rs 314-7-0. Excess sum charged is Rs 100/-. The cash book is partly written by Assistant Shroff Chengia Shetty to begin with and there after the 3rd accused takes up the book and continues the day's transactions till its close. According to the Baraward, there is only one stipendiary, viz, serial number 2 who has been paid his stipend of Rs 314-7-0. This entry is honestly made in the cash book by Chengia Shetty as Rs 314-7-0. After the 3rd accused,starts writing the cash book, he notes a fictitious entry of Rs 100/- Exhibit $P_{21(n)}$ as representing payment to Rajabandhus. This entry is palpably false and no stipendiary couldhhave appeared to receive the sum.

I shall now proceed to analyse the result of our scrutiny re- the above transactions, with special reference to the lists of Subbanna, Baraward abstracts, Shroff's book and note register.

1. In the lists of Subbanna,we find fraud committed in the hall, by entry of fictitious numbers and fictitious sums being smuggled in the valid payments made to the 3rd accused and in these paid to Venkataraya. Vide lists of 4-12-'22, 3-11-'24, 4-9-'25, 3-11-'25, and 3-2-'26.

2. Fraud committed by charging off items already adjusted, either towards deposits or advances. Vide lists of 4-12-'22, 4-9-'25, and 3-11-'25.

3. Fraud by noting excess payments against serial numbers paid. Vide 4-9-'25.

4. Repitition of the same serial number, once paid, or double entry of the same number. Vide, 3-11-'24, 4-9-'25, 3-11-'25 and 3-11-'26.

5. Lists showing details of payments at the counter, though not numbered. Vide 4-8-'24 and 4-9-'25.

6. Addition of a lump sum (representing payment at the counter) to the total payment in the hall. Vide, 4-12-'22, 4-3-'24, 3-11-25 3-9-'26, 4-10-'26, 3-11-'26, 5-1-'27 and 2-4-'27.

7. Lists in which seperate totals are given re- the alleged payments made to the 3rd and sometimes to Venkataraya . Vide 4-12-'22, 3-11-'24, and 3-11-'25. 3-7-24. 4-8-24

8. Lists showing classification of payments made. Vide 4-3-'24, 4-9-'25, 3-11-'25, and 3-11-'26.

9. Lists showing amounts brought from the counter for disbursement in the hall. Vide 4-9-'25 and 3-11-'25.

10. Lists containing calculations to strike the cash balance on hand. Vide 4-9-'25 and 3-11-'25.

11. Clerical error in the lists of 3-9-'26 and 2-4-'27.

12. False entries (falling under the several heads noted as 1,2,3, and 4) were made with a dishonest and fraudulent intent.

Barawards.

1. There are some alterations and erasures in the body of the Barawards in the column of arrears for which Ramia is solely responsible and this has no manner of connection with the facts of the present case.

2. The Baraward abstracts of all the first days above referred to are invariably written by Ramia and initialled both by him and the 2nd accused.

3. The hall disbursements on 3-7-'26, 3-12-'26, 3-2-'27 and 3-3-'27 were supervised by Puttu Row and the abstract is initialled by Puttu Row. Puttu Row attended to these disbursements as Subbanna was absent on 3-7-'26. 3-12-'26 and 3-2-'27. On 3-3-'27

Puttu Row attended, as Subbanna was in charge Treasurer. Vide evidence of Puttu Row given on 3-11-'27)

3. On 9-8-'26, 12-8-'26, Puttu Row attended to the subsequent day's disbursement. On 9-8-'26, defalcation is Rs 150/- and on 12-8-'26 defalcation is Rs 174-8-0. Thus the contention of 3rd that he paid because A asked him to pay, falls to the ground.

Shroff's book.

1. On 4-12-'22 and 3-9-'23 the 3rd accused enters payments at the counter and notes payments in the hall as the last entry. But on 4-3-'24 a departure is made and the 3rd clubs payments at the counter with payments in the hall and makes only one consolidated entry. viz on 3-11-25; 3-9-26; 4-10-26; 3-11-26; 5-1-27; & 2-4-27

2. On all other dates of 1st day's payment, he misappropriates money by showing excess sums along with moneys received by him, as a consolidated entry in his cash book. The hall payment is entered last.

3. On subsequent days of payment, he falsely enters excess sums in his book.

4. On 7-7-'25 a blank space is left but subsequently filled up On 5-3-'26, a blank is left and the figure 304 is altered to 829. On 3-9-'26 the figure zero is altered to 7.

Note Register.

On dates of defalcation, 3rd accused abstracts notes of Rs 100/- each on 3-9-'26, 4-10-'26 and 3-11-'26. 3rd accused wilfully fails to note the numbers of notes received on 5-1-'27, and 2-4-'27 in order to screen the fraud.

Inferences that are to be drawn from all the above noted circumstances.

From 1922 up till the beginning of 1926, we find on the 1st payment days, a concerted action on the part of all the three accused. Defalcations are confined to the hall and invariably mixed up with payments made to the 3rd accused, on every occasion and sometimes additional fraud is perpetrated by the intermixture of spurious payments along with those paid to peon Venkataraya.

(b) The fraud committed in the above manner is found to rise steadily, as time goes on.

(c) The place of defalcation is changed to the counter only on one occasion, viz, on 4-3-'24, when fraud could not with ease be committed as usual in the hall.

(d) We notice a change of tactics in September 1926. The place of fraud ceases to be the hall and even on the first payment days, the third accused assumes absolute control over the fraud and thereafter, defalcations are invariably committed at the counter, except on two instances, viz, on 3-11-'26 and 2-4-'27 where in addition to the defalcations at the counter, there are defalcations in the hall also.

(e) The most interesting feature in all the frauds committed in the counter is that the 3rd accused pays himself his dues at the counter and embezzles money along with it.

(f) When the fraud on the first payment days becomes heavy enough, the 3rd accused has recourse to the further tactics of operating upon the note register and abstracts currency notes of 100 rupees denomination, to facilitate removal. Vide incidents on 3-9-'26, 4-10-'26, 3-11-'26, 5-1-'27 and 2-4-'27.

(g) Defalcations on subsequent days, at the counter, go on un interruptedly,during the whole period.

(h) Evidence of conspiracy, is in a very noticeable and pointed manner established by this additional circumstance. Repayments in the hall, it is admitted by the Assistant Shroff Chengia Shetty that he was preparing a list of payments, made and was handing over the list and the balance of the undisbursed amount to his chief - the Head Shroff. The Head Shroff in his statement admits that he was noting down payments made across the counter on a slip of paper and was thereafter totalling up the entries and then note the total in his cash book. If so, take the instance of 4-4-'27. On that day there was only one payment of Rs 314-7-0, at the counter. The Head Shroff falsely writes

in the cash book. that a second payment of Rs 100/- had been made and notes the total payment for the day as Rs-414-7-0. The days abstract also contains the same total of Rs 414-7-0. Here is a typical instance of two false totals agreeing: Though the writer of the abstract had dishonestly and fraudulently stated the total disbursement on the day was Rs 414-7-0, yet the 3rd accused had materials to detect the fraud and to reject the inflated total. But as he was in league with the writer of the abstract and an active participator in the fraud, he fraudulently makes a false entry in his cash book, to evidence payment of Rs 100/- in excess and therefore we find the curious incident of two false totals agreeing, which could only be the result of a concerted action or conspiracy. Further, we find that the contention of the 3rd accused that he was meekly paying if 1st accused asked him to pay is false. Finally we find that fraud is found to have been committed even on days on which accused 1 and 2 are absent. Thus we find accused 1 and 2 are not indispensable factors for the perpetration of the fraud. This proves in a signal manner, that the fraud at its very inception, is in connection with payments alleged to be due to the 3rd accused, and as time rolled on, the 3rd accused reserves to himself the whole control and starts embezzling large sums of money at the counter. Thus out of the 3 accused before court, my submission is that the criminality of the 3rd is the most heinous and of the gravest character. Being a man placed above want, his fraud is inexcusable, as it is he that organizes the fraud it is he that guides it and it is he that controls it from start to finish. To achieve this nefarious object, he resorts to various subterfuges and tactics. Thus it is, I have advisedly stated above that he is the guiding spirit of all the frauds committed in the Palace Treasury; and that if one be interested in finding out the fraud in the Palace Treasury, he need only search for the place, where the 3rd accused has received his debts due from the stipendiaries who were indebted to him.

Now let me deal with the additional lists and other matters connected with C.S.no., 2 of 1927-28.

(1) 3-1-'23:

Exhibit P_8 is Subbanna's list of this day.

Total excess charge is Rs 140/- composed of Rs 100/- clubbed with the real payment of Rs 51-8-0 paid to Venkataraya in respect of serial no., 27 and Rs 40/- intermixed with the payment ~~of~~ to A_3 against serial number 59.

The noteworthy feature is that between the real payment of Rs 41-8-0 to Venkataraya against serial no., 59, and the repetition of the same serial number 59 with the fictitious payment of Rs 40/- to A_3, there is only a single serial no., 204 for Rs 2/- was paid. Hence the repetition of this serial no., 59 could not have escaped the notice of 2nd accused Subbanna.

In this list A_2 has classified the total payment between (1) arrears (2) current claim, (3) advances recovered (4) Income-tax deducted and (5) deposits adjusted. This is a typical instance in which A_2 has undertaken to discharge his obligation in the matter of the superintence by him of Ursu disbursements.

(2) 5-8-'25 :-

P_{63} , total defalcation is 860-8-0 of which Rs 650/- are intermixed with the payments to A_3, that is serial no., 5 - Rs 350/- and serial no., 41 - Rs 300/-. The balance of Rs 200/- plus Rs 10-8-0 excess payments charged for apart from the closing entries relating to A_3.

But in the notes register A_3 has noted 8 notes of Rs 100/- each to L.Narayana setty, which indicates that the additional sum of Rs210-8- defalcated over and above Rs 650/- associated with the payments to A_3 must have reached the hands of A_2.

(3) 3-3-'26 :-

Exhibit P_{15} - Subbanna's list (last date of fraud in the hall)

The total defalcation is Rs 500/- of which Rs 400/- is wedged in between the payments to A_3 and Rs 100/- in excess is shown against

serial no., 57 when peon Venkataraya has acknowledged only Rs 81-8-0 out of Rs 181-8-0 shown in the list.

(4) 6-5-'26 :- Exhibit P.

...is list shows two lumpsum totals of Rs 735-12-0 and 186-0-0 added to the item was total of A_2's payments at the hall. Out of the lumpsum of Rs 735-12-0, Rs 88-12-0 is acknowledged by A_3 and Rs 647 is excess paid out of the lump sum of Rs 486/- - Rs 106/- is paid to Venkataraya and the balance of Rs 380/- is spurious. The total defalcation is Rs 1027/-

(5) 4-8-1926 :-

A_2's list exhibited for the defence.

On this date Harahari Rao sat for payment in place of Ramia. There was no fraud on that day. One significant circumstance is that out of 50 notes of Rs 100/- each, noted in the notes register at the fi first instance, 11 notes are credited back to the notes register. These 11 notes bear the consecutive serial nos., and bear the intermediate numbers out of those taken out for Urs. payment.

The figure 11 is very significant. The circumstances indicate that the 11 notes set apart for removing the defalcated sum, is shown as credited back. On 5-8-'26 these 11 notes along with others are shown as issued to Cheluvachari. It is also note worthy that on 5-8-'26 A_3 recovered Rs 7,000/- from Cheluvachari at the counter.

Another note worthy circumstance is that when on 4-8-'26 there was no fraud perpetrated, the very next day, thatis, 5-8-'26, the total amount defalcated was Rs 1,383/- at the counter.

9-4-'23 :-

Amount charged is Rs 106-0-0, Amount paid is Rs 31-0-0 (serial no., 293is Rs 21-0-0 serial no. 444 Rs 10-0-0)
Amount defalcated is Rs 75-0-0.

Puttu Rao has attended to the disbursements and written and signed the abstract. A_3 has posted the cash book.

Note :- Gopalakrishna setty has noted in the cash book the payments of Rs 21/- and Rs 10/-, but A_3 took the cash book and noted as the last entry the excess charge of Rs 75/- and gave back the cash book to GopalaKrishnasetty to post the closing entries.

15-9-'23 :-

Amount charged by payment is Rs 50/-

by adjustment Rs 248-14-4

Amount actually paid out is nil

Excess charged is Rs 50/-

There was no actual payment; and Puttu Rao has written the daily abstract showing thepayment of Rs 50/-.

Cash book is fully written up by Gopalakrishnasetty . But A_3 took the book from him and posted the fictitious payment of Rs 50/- as the last entry. The first pencil total not including Rs 50/- is p put by Gopalakrishnasetty and the 2nd pencil total including Rs 50/- is put by A_3.

4-9-'24 :-

Amount charged is Rs 2,589-4-0

Amount paid is Rs 2,439-4-0

Amount defalcated Rs 150 -0-0

Though Puttu Row has noted all the days payments and written the daily abstract, Ramiah has signed the abstract.

Cash book is fully written by A_3. There are three entries in the cash book.

1,954-11-0 Against this item A_3 has noted in pencil Rs 1,462-8-0 and Rs 492-3-0 which represent two payments.

484- 9-0
150-0- 0

The fictitious sum of Rs 150-0-0 appears as a distinct entry.

7-11-'24. :-

Amount charged is Rs 72-8-0

Amount paid is Rs 21-0-0

Amount defalcated Rs 51-8-0

Rs 21/- in respect of serial nos, 14,16, and 17 is noted by Chengiah setty in the cash book and A_3 who subsequently took the cash book posted the fictitious entry of Rs 51-8-0 as a distinct entry.

Daily abstract is written and initialled by Puttu Row.

5-1-'25. :-

Amount charged is Rs 1,562-8-0

Amount paid Rs 1,512-8-

serial no:-1 Rs 1,462-8-0
" " 4
(mosaibs) 50-0-0

Amount defalcated Rs 504-0-0

There were only two payments to respective persons, that ... payment to Sirdar Lakshmikantaraja Urs and to Retired Assistant Commissioner Mr. Bhima Rao's son.

Daily abstract is written and signed by Puttu Rao.

Cash book entries are :- Rs 1,462-8-0 serial no., 1

50-0-0 serial no.

50-0-0 defalcated.

6-11-'25. :-

Amount charged is Rs 554-3-0

Amount paid is Rs 504-3-0

Amount defalcated Rs 50-0-0

Payment:-

serial no., 4 Rs 492-3-0

" " 117 Rs 9 -0-0

" " 183 Rs 3-0-0

Rs 504-3-0

Cash book entries:-

492-3-0
9-0-0
53- 0-0 of which 50/- is excess.

The whole cash book is written by A_3. In the last entry with the genuine payment of Rs 3/-, A_3 has charged Rs 50/- in exc Puttu Rao has noted the details of payment; but Ramiah has written and initialled the abstract.

6-4-'26 :-

Amount chagged is Rs 1,734-0-0

Amount paid is Rs 984-0-0

Amount defalcated Rs 750-0-0

Puttu Rao has noted the payment and Ramiah has written and signed the Abstract.

A_3 who has posted all the cash book entries and has charged Rs 750/- in excess, has noted 5 notes of Rs 100/- to L.Narayanasetty

N.B.:- Regarding the remaining subsequent days payments, viz, 7-7-'25 (707-1-0), 5-3-'26 alteration of 304-4-0 to 829-4-0 7-1-27, 4-3-27, 8-3-27 and 4-4-27, argument has been advanced in C.C.

C.C. no., 1 of 27-28. The additional point elicited in C.C.2 of 27-2 is that on all these dates the actual payments are all noted in the Baraward, where as Ramiah has written and posted the Daily abstracts.

Notes Register.

First payment days referred to:-

(1) 3-11-'24 :-

The total defalcation was Rs 700/-

on 4-11-24, the defalcation was Rs 100-2-0

The note register on 4-11-24 shows 1 note of Rs 100/- issued to Lakshminarayanasetty, evidently in regard to the defalcation of Rs 100-2-0 on 4-11-24. This is noted by A_3.

A_3 has further noted 2 notes of Rs 100/- to V. Ramiah on 4-11-24, evidently in payment of Rs 200/- towards the defalcation of Rs 700/- on 3-11-24.

(2) 5-8-'25 :-

Amount defalcated is Rs 860-8-0,

of which Rs 650/- composed of Rs 350/- and Rs 300/- was associated with the payments to A_3 in the closing entries of A_3's list, Ex. P_{63}.

The additional defalcations of Rs 200/- 10-8-0 are seperated from the closing entries far apart.

Yet as against the total of Rs 860-8-0 defalcated, A_3 has noted 8 notes of Rs 100/- to Laksmminarayanasetty.

(3) 4-9-'25:-

Amount defalcated is Rs 650-0-0

A_3 has noted 2 notes of Rs 100/- to L. Narayanasetty and 1 note of Rs 100/- to himself (A_3).

(4) 3-11-'25 :

Amount defalcated is Rs 918-0-0

A_3 has noted 2 notes of Rs 100/- to L. Narayanasetty.

(5) 3-2-'26 :-

Amount defalcated is Rs 1,093/-

Out of 50 notes of Rs 100/- debited in the notes register, only 37 notes can be accounted for regard to the payments

of above Rs 100/- on this date and 13 notes have unaccountedly disappeared.

(6) 3-9-'26

Amount defalcated is Rs 1,330/-

11 notes of Rs 100/- are noted by A_4 towards the 2nd instalments of Ursu payments in addition to 5 notes first noted for Ursu payments.

The total hall payments was only Rs 7,746-4-0. Usually Rs 8,050/- will be sent to the hall at the first instance and the 5 notes of Rs 100/- first noted might have been sent in that Rs 8,050/-. There was no need to replenish it by 11 more notes, as the total hall payment is less than Rs 8,050/- being only Rs 7,746-4-0.

Hence 11 notes were used to remove the defalcated sum.

Moreover 11 notes of Rs 100/- bear on the entry of Rs 1175 in the cash book, in which the first attempt to note 1,100/- is abandoned, and fig 0 is altered to kanarese 7 and Rs 1,175/- finally written.

It is difficult to alter 0 to kanarese 8 ( ) Hence out of Rs 82-8-0 acknowledged by A_3, only Rs 75/- is clubbed with Rs 1,100/- because it is easier to alter 0 to kanarese 7 ( ) 1 note being No., T.E 76 06683 traced to

(7) 4-10-'26 :-

Amount defalcated is Rs 1,100/-

Though Chengiah setty has written the whole cash book and noted all the other entries in the notes register, A_3 has noted as the last entry the issue of 10 notes of Rs 100/- for three payments. The last place occupied by this entry when viewed in the light of the other entries made by Chengiah setty with their corresponding entries of payment noted by Chengiah shetty in the cash book, bear out that the 10 notes of Rs 100/- could not have been sent to the hall at the closing hours of the day's transactions.

The notes register shows that the notes so taken bare nos., T.E 48 34763 to 73 and the evidence of Mr. Ananthachari and the documents produced by him clearly indicate the six out of these notes bearing nos., T.E 48 34768 to 73 were handed over to him by A_3 on 28-10-26 the defalcation being on 4-10-'26.

When Rs 622/- was paid as the Insurance amount, that 6 notes of Rs 100/- bearing consecutive nos., should be with A_3 to be handed over to Mr. Ananthachari when viewed in the light of the other facts above detailed lead to irre and the only conclusion that the 10 notes of Rs 100/- after they left the Treasury were taken straight to the home and 6 out of them remained with him unspent till 28-10-'26.

3-11-1926:-

Amount defalcated was Rs 1,141/- at the counter and Rs 200/- in the hall. A_3 has noted 12 notes of Rs 100/- to L. Narayana setty.

5-1-'27 :-

Defalcation of Rs 1,100/-

The notes received from the Private Secretary's office are not entered in the notes register.

Subsequent days and the notes Register

(1) 4-11-'24 :- already referred to in connection with 3-11-24.

(2) 20-6-24 :- On this date A_3 has noted 3 notes of Rs 100/- bearing nos., $\frac{D.D}{3}$ 68014,68015,68011 to Zanana Samukha. But the press copy book shows that on the very next day the last two of these notes are used by A_3's brother.

(3) 5-12-'24 :-

Amount defalcated is Rs 506-8-0

Gopalakrishna setty has noted 2 notes to himself and one to A_3

(4) 6-4-'26 :-

Amount defalcated is Rs 750/-

A_3 has noted 5 notes to L. Narayanasetty.

(5) 6-5-'26 :-

Amount defalcated is Rs 400/-

On this day Chengiah setty has noted in the notes register 3 notes of Rs 100/- thus :-

The entry is very significant.

(6) 9-8-'26 :- Gopalakrishnasetty has written the whole cash book and has noted the excess charge of Rs 150/- in regard to thr

payments.

But yet it is seen that A_2 has noted in the notes register one note to Ramiah.

(7) 4-12-'26 :-

Amount defalcated is Rs 417/-

has taken 1 note of Rs 100/- and has written his full name in the note register.

(8) 7-1-'27 :-

Amount defalcated was Rs 250/-

A_3 has noted 2 notes of Rs 100/- to Ramiah.

The above facts, I submit, prove in a noticeable and convincing manner, not merely the existance of a conspiracy as amongst the three accused persons, but also prove that the third accused was the man that was guiding and controlling the several acts of defalcation.

Having thus far dealt at considerable length with the documentary evidence, adduced in the case, let me now crave your Honour's forbearance to deal with the oral evidence in the case. Your Honour must have noticed, during the course of my argument yesterday that I have very sparingly referred to the oral evidence, for the simple reason that this is not a case in which prosecution intends to rely upon much oral evidence to prove the case for the prosecution, except it be to place on record certain facts relevant to the proof of the fact in issue. Further, it is a circumstance worth remembering that the oral evidence adduced in the case, is mainly in regard to matters, which are admitted by the accused themselves as being consistent with the testimony of the prosecution witnesses. Nevertheless evidence had to be let in, in order thus to satisfy the provisions of Law and Procedure. Thus it becomes necessary to analyse the oral evidence adduced in the case. This evidence may be classified as hereunder noted.

The fact in issue is whether by reason of a conspiracy amongst the three accused persons, and in the course of their nefarious scheme, to embezzle various sums of money from the Palace Treasury, as occasions arose, the persons in the dock, defalcated a sum of Rs 1,407-12-0 on 2-4-'27 both in the hall and at the counter, and a further sum of Rs 1,330/- on 3-9-'26 at the counter.

Thus evidence regarding the procedure that was being adopted in the hall and the counter during the disbursement of Ursu stipends, is absolutely relevant. It is to prove this matter that Narahari Row, Puttu Row, L.R.Subba Row, Ramaswamy Shetty, Chengiah Shetty, Gopalakrishna Shetty and Accountant Rajagopalachar and Venkataraya have been examined. Irrespective of the fact, that there exist in the recorded evidence of ~~some~~ of these witnesses, certain incidents or circumstances, which might safely be accepted as affording sufficient material, to characterise some of these as accomplices, yet, I contend, and while so doing, I feel sure of my ground, that the evidence of these accomplices is entitled to credence, for the simple

reason that them accused do not question or dispute the veracity of the statements of these witnesses regarding matters, on which prosecution relies.

The main facts spoken to by the above witnesses are briefly these

(1) That Ramia was preparing the Baraward and the Audit Register.

(2) That Ramia was getting the enfacement order signed by the Assistant Private Secretary.

(3) That Ramia was bringing the Baraward for payment to the Treasury and used to be present during the disbursements on first payment days.

(4) That Ramia used to read out from the Baraward the numbers, name and amount due to each stipendiary and was getting acquittances in the Baraward.

(5) That Subbanna and the Assistant Shroff present, would note down on seperate slips, the number and amount paid, as each payment was made.

(6) That Subbanna and the Assistant Shroff would total up the hall payments and therafter add to it the payments made at the counter by A_3, after getting the necessary information from him.

(7) That after the disbursements in the hall were over, payments that had to be made to A_3 and peon Venkatarayu, would be taken up for consideration and such payments would invariably be the last items in the lists.

(8) That the amount thus arrived at, would be sent to A through peon Venkatarayu and that A_3 would receive the amount thus sent.

(9) That the days abstract would be written by Ramia and to this both Ramia and Subbanna, would affix their initials.

10) That the Baraward would first be taken to accountant Rajagopalachar, for being entered in his book and thereafter, Ramia would place the book in the Treasurer's hands.

(11) That Rajagopalachar would ask the Head Shroff about the entries made in the abstract, before incorporating the same in his book.

(12) That the Assistant Shroff would place the list prepared by him in the hands of the 3rd accused, with the undisbursed unt, if any.

(13) That the Treasurer would ask the Head Shroff if the entry in the abstract was correct, and after A_3's assurance, would initial the day's abstract and keep the Baraward with him.

(14) That the Baraward would remain in the custody of Puttoo Row during office hours, on all subsequent days of payment and that either Ramia or Puttu Row would cause payments to be made on such subsequent days.

(15) That the Baraward would remain in the Treasury till about the close of the month, when Ramia would take it away, for preparing the coming month's Baraward.

The above facts are not merely not denied by the accused but re in express terms admitted by the accused persons. Facts being thus, it is a matter of little or no consequence, that such admitted facts are placed on record, by the examination of persons, who may be deemed to be accomplices.

It is now my duty to mark out, as to who may come underthe category of accomplices, out of the persons named above.

Harahari, Puttu Row, Chengia Shetty, Gopala Krishna Shetty and peon Venkataraya, may be dubbed as accomplices.

L.R.Subba Row may at the worst be charged for gross negligence of duty and culpable indifference. Ramaswamy Shetty- the paternal uncle of the 3rd accused, admittedly on terms of hostility with A_3- is a truthful witness and there is no good reason as to why his evidence along with the disinterested evidence of accountant Rajagopalachar, should not be accepted as reliable and true.

Next, there is a mass of documentary evidence, adduced in the

case. It was necessary to prove as to which of them were in the handwriting of A_1 and which in that of A_2 and which in that of A_3. Though the accused persons have had atleast the tinge of honesty still left in them, to admit their writings in the several documents relied on by the Prosecution, in the course of their statements, yet, it behoved upon the prosecution, to adduce the evidence of ppersons conversant with their hand writing, before the fact could be assumed to have been proved, under section 47 of the Evidence Act. So to prove as to which document or portion of a document ~~is~~ was in the handwriting of the particular accused, prosecution had to examine, L.R.Subba Rao, Narahari, Puttu Rao, Chengia Shetty, Ramaswamy Shetty, and Gopala Krishna Shetty. Accomplice or no accomplice, the evidence of these is entitled to favourable consideration, as the accused do not, even in a single instance, controvert the evidence of any of these witnesses

I must in this connection advert to certain matters, which the accused, have thought fit to deny, in their statements now before this court.

1. A_2 contends that he had no manner of responsibility in the causing of payments in the hall.

2. A_2 contends that he was preparing the lists, not in the discharge of his official duties, but merely for his own reference.

That the above contentions are without force, is made evident by a perusal of his voluntary statement given before Mr. Rama Rao on 24-8-'27. The said statements discloses the fact that the 2nd accused was conscious of his responsibility and was also keen about it. His admission that he took exception to the inclusion of counter payments being added on to his list and that he consented to such inclusion, after express orders of the Treasurer, and further the fact that he was taking these lists to the Treasurer, each evening, to be scrutinized and verified by him, by the assurance of A_3, go a long way to prove the hollowness of his present contention. Further, there is the undeniable fact that even in the view of A_2 the Treasurer was the disbursing officer of the stipendiaries pay bill. It is not seriously contended

even by A_2 that he was being asked by the Treasurer to supervise the payments and that in consequence of such delegation, he used to be present in the hall and prepare the lists. Under such circumstances, it is idle to contend and it is ludicrous to suppose that A_2 was present in the hall, merely while away time, and that he used to prepare the lists, as payments were made, merely to keep him engaged. If so, of what consequence would it be to him, what matter the lists contained? Why should he demur for the inclusion of payments alleged to have been made at the counter, and where was there the necessity for him, to submit these lists to the Treasurer? Of course, the Treasurer, for reasons not difficult to see, and with the supposed impression that he would be bettering his own position, goes to the ludicrous length of avering in the witness box, that he has never seen these lists. I must in fairness to A_2 prefer to believe him and characterise the testimony of the Treasurer in this particular, as being untrue.

A_3 contends that he had no manner of responsibility in the disbursements of Ursu stipends, and that his responsibility was at an end, if he implicitly obeyed the mandate of A_1 and paid to whomsoever A_1 wanted to be paid, when A_1 said that acquittance had been secured in the Baraward. That this contention is not merely false but untenable is made clear by the special circumstances that are proved to exist, for the few payments at the counter on the first payment day and also by the special incidents pertaining to some of the payments on subsequent days and above all, by the fact that defalcations have been proved to have taken place, even on days, when Ramia was not present to order payment.

A_3 contends that the lists prepared by his assistants, were not placed into his hands for his inspection and scrutiny. His statement of 27-8-'27 given before Mr. Rama Row, lays threadbare the hollowness of this contention.

A_3 further goes the length of disowning all responsibility and tries to clothe himself in blissful ignorance of the details of

payments in the hall and tries to seek shelter under cover of the statement that he honestly believed that he acted aright if he obeyed A_1.

The under noted extract from his statement given before Mr. Rama Rao, on 27-8-'27, has its own significance and no further comment is necessary to negative his present contention.

In the evening I would send word to Ramaya, the amount which we had been paid at the counte. I was noting down what I had paid in a chit. In my absence from the counter, the Assistant Shroffs were paying in the same way and noting on slips of paper. The total would be intimated to Ramaya in the evening. The Shroff who was paying in the Ursu disbursements room would note on a piece of paper, the number of the stipendiary and the amount disbursed. The amount disbursed in the disbursement room and on the counter would be tallied with Ramia's account as per Baraward. I would enter the total amount in the cash book. etc., etc.,

The slips on which disbursements were noted by the Shroff were destroyed or thrown away each evening, after the accounts were tallied.

Thus the above statement affords basis for the assumption, nay, inference, that the lists of the Assistant Shroff were being used by the Head Shroff, for purposes of verifying the correctness of the payments alleged to have been made in the hall, and that the Head Shroff was comparing the entries in the lists with the individual entries in the Baraward and that after having satisfied himself regarding the correctness of such entries in the lists, he would accept the total noted in the lists and thereafter adopt it and enter the same in his own cash book. In the face of the above unequivocal admission, it certainly is not open to the 3rd accused, to invent new lines of defence or to attempt to absolve himself from responsibility, by advancing false pretences.

The prosecution has examined Messrs. Sachidanandam Pillay, Yusuff Khan, and Ranganna, to show that the auditing of the Barawards was not as it ought to have been and that this circumstance coupled with other circumstances afforded peculiar facility and oppurtunity to the accused persons to indulge in their acts of defalcation for about seven years.

Re:- Admissibility of lists of Subbanna.

The accused in the first place contend that the lists produced by the 2nd accused in the departmental enquiry before the Assistant Secretary Mr. Rama Row are inadmissible in evidence, as they have no manner of relevancy to prove the fact in issue My answer to the above objection is noted as follows:-

The fact in issue is whether as urged by the prosecution and as the result of their conspiracy, the accused perpetrated a series of systematic frauds both at the counter and in the hall and that on the date of charge, viz, 2-4-'27, an embezzlement of Rs 1,407-12-0 took place, as the result of their conjoint action, both in the hall and at the counter. Thus the incidents that used to take place in the hall and at the counter on the first payment days, are relevant under section 7 of the Evidence Act, as they constitute the state of things under which the fact in issue happened. All facts and events leading up to the transaction in issue and are so closely connected with each other as to throw light on the matter in issue and help its proper understanding are relevant.

Re:- Admissibility of the Voluntary statements of the three accused.

The accused contend that their statements given before Mr. Ramamao are inadmissible and that the statement of one ought not to be used as against the other, even if deemed admissible. While dealing with the admissibility of these documents, it is necessary to bear in mind, that the accused do not contend that these were extorted from them. On the other hand, there is intrinsic evidence to prove that these statements were voluntary and were given out of their free will and consent. The statemer of Ramia, which runs over many sheets of manuscript, are in his own hand. Though this contains some sort of a confession regarding incidents which have no manner of bearing to the subject matter of the charge, yet there is clear indication that it was voluntary. The 1st accused does not even suggest inducement, threat, or promise.

These statements are clearly admissions and by no means confessions of guilt, and as such are admissible under section 21 of the Evidence Act. In regard to the contention that the statement of one should not be used as evidence as against the other, as the prosecution has proved conspiracy under the provisions of section 10 of the Evidence Act, the statement of one may legally and with justification be used as evidence as against another.
Read 36 A. 222.

:- Admissibility of instances of defalcation on previous and subsequent dates

The defence contends that instances of defalcation pertaining to dates other than the one charged are inadmissible as the detailing of such instances are likely to embarass and operate to their prejudice. My answer to the above objection is that such incidents are admissible and relevant, not to establish the factum of the offence charged, but to prove that the transaction in issue was one of a systematic series of frauds and that the intention of the accused on the particular occasion in question was dishonest and fraudulent. Frauds practised prior to and subsequent to the date complained of, are admissible in evidence to prove guilty intent as also to anticipate the defence of the non-existence of such intent. Whereever, it is necessary to rebut, even by anticipation; the defence of accidant, mistake or other innocent condition of mind, evidence that the accused has been concerned in a systematic course of conduct as the same specific kind as that in question may be given. Vide sections 14 and 15 Indian Evidence Act. Refer also to 98 Indian cases page 407; 28 B.L.R. 115, 50 B. 174; All India Reporter 1926.B.231. 27 Crl and J 1926 page 1225. 97 Indian cases 1011; and 36 Cal 573.

Re:- Reliability of Lists.

The defence contends that the lists should not be relied upon for the following reasons:-

(1) In the lists of 3-9-'26,5-1-'27 and 2-4-'27 there are some serial numbers and amounts shown as paid. When these numbers are compared with the entries in the Baraward, the falsity of these entries become patent.

(2) Conversely when the amounts shown as paid in the Barawards, such payments are not supported by the entries in Subbanna list.

(3) Certain corrections and scoring out of entries are relied on by the defence to base an argument that these lists are not merely incorrect, but are worthless.

(4) Further, it is contended that payments to one individual admittedly under 2 serial numbers, are ~~not~~ clubbed together and shown as paid towards one serial number.

Answers to the above objection.

The above contention is without force and that it is so is made evident by the undernoted circumstances :-

The errors relied on by the defence are purely clerical mistakes incidental and unavoidable, during the preparation of such lists. That these mistakes are bonafide mistakes and handslips and do not even in the slightest degree, effect the actual payments on the day is satisfactorily explained and accounted for by the Auditor P_{14}.

Re:- Fictitious entries in the lists.

The defence further relies that there are a number of fictitious items in the lists of Subbanna and that therefore, the lists are unsafe to be relied upon. The only answer to this objection is that while admitting the falsity of these fictitious items, the prosecution bases its case to prove the defalcation, upon these very entries as they were designedly made. These fictitious entries far from affording any support to the defence, lend considerable support to prove the case for the prosecution.

Further, these lists are entitled tos special consideration and are of great evidentiary value, as they are proved to have come into existence contemporaneously with the payments in the hall. The admitted fact that these lists contain mistakes is a clear indication of their bonafides and render these documents as being correct and reliable representations of the incidents as they took place in the hall.

Re:- Reliability of the Barawards.

The objections advanced by the defence in the matter of placing reliance in the entries of the Barawards, is mainly directed to the existence of alterations and erasures in it. The prosecution does rely upon the said alterations and erasures, only for the purpose of proving the duplicity practised by the 1st accused, in league with his co-conspirators. But this being a matter which is clearly beyond the scope of our present enquiry, the prosecution advisedly refrained from probing into the matter, as the same would have exposed many an act of fraud, not relevant to the point at issue. By this circumstance alone there is no force in the contention, that the Barawards are unreliable.

Much labour has been spent by the defence, in placing on record various instances of distinguished stipendiaries being paid in the hall, on many occasions. This attempt is evidently made to base an argument that in respect of such payments, Ramia and Subbanna, played false and entered falsely in their lists that they had been paid in the hall, when as per the evidence of the prosecution, they were being paid at the counter. In answer to this contention, let me first urge thati it is not the case for the prosecution that these distinguished stipendiaries invariably received their stipends at the counter alone and not in the hall. All that the prosecution has proved is that on 1st payment days, payments at the counter, would be an exception; and that such exceptions were relaxed in favour of respectable stipendiaries whenever they chose to receive payment at the counter, instead of in the hall. For example, Mr. A. Chamappaji Urs, a very respectable stipendiary has received his stipend only once at the counter, on 2-4-'27 between September 1926 and April 1927. During the same period Mr. Rana Lakshmana Singhjee has received his stipend only once at the counter and that is on 5-1-'27. Mr. Sirdar Lakshmi kantaraj Urs or his agent has not received the stipend at the counter, on the first payment day, during this period. Further, the all important point is, that the cash book, of the 3rd accused

does not contain any entry to evidence the fact of payment at the counter to any of these stipendiaries during the period above adverted to and this circumstance gives the lie direct to the presumption which the defence wants the court to draw. This is a typical instance of an attempt on the part of the defence to weave out a theory inconsistent with the statement of the 3rd accused without an honest attempt being made to explain and establish his innocence if innocent he really were.

Having upto now dealt with the various aspects of the case, and with the objections advanced by the defence regarding the admissibility and evidentiary value of the following documents , viz, the statements given by the three accused before Mr. Rama Row Pw_1 in his enquiry, the several lists of Subbanna - the 2nd accused, the Barawards prepared by the 1st accused and the incidents prior and subsequent to the fact in issue, let me in fine deal with the respective culpability of the three accused.

Facts to prove the criminality of the 1st accused.

1. The 1st accused was admittedly the Duftar Sheristedar and as such was preparing the monthly Barawards relating to Ursu stipends. All the Barawards filed in the case are proved beyond all reasonable doubt to be in his hand writing. He was the person that was preparing the enfacement order in canarese, before its submission to the preaudit section. Accountant Venkatesia, Head Accountant Usuff Khan, Narahari Row and Manager Mr. Sachitanandam Pillay have deposed in support of the above cirdumstance. Mr.S.P. Rajagopalachar has stated thati it was the 1st accused that used to bring the Baraward for authorizing payment.

2. Mr. L.R. Subba Row, Treasurer, has deposed that it was the 1st accused that used to bring the Baraward on first day's payments to the Treasury after the enfacement and demand payment. Further, the evidence of the Treasurer, Sheristedar Rajagopalachar, Assistant Shroff Chengia Shetty, Assistant Shroff Ramaswamy Shetty, clerk Puttu Row, peon Venkataraya and Duftar Sheristedar Narahari

Row, proves in a convincing manner, the part that was being played by the 1st accused, in the matter of payments to ursu stipendiaries both on the 1st day of payment and on subsequent days of payment. It is also proved by satisfactory evidence that the daily abstracts along with the entries, evidencing the date and amount of the individual payments were written by the 1st accused. It was also the 1st accused that was taking the signatures of the payees in the Baraward, in the majority of cases.

3. It is proved by the evidence of peon Venkataraya, that the 1st accused was appropriating various sums of money, by causing Venkataraya to affix his signatures in the Baraward to evidence receipt of stipends, which he was authorized to draw, only in part.

4. Further, there is the evidence of the Assistant Shroffs Ramaswamy Shetty and Chengia Shetty, clerk Puttu Row, Treasurer, Rajagopalachar, Venkataraya and Mr. B.P. Siddaraja Urs that the 1st accused was the man that usedto take the signatures of the stipendiaries and to read out the serial numbers, the names and the amounts that had to be paid to the stipendiaries who awaited payment in the hall, from the Baraward. The fact that the lists of Subbanna, contain innumerable instances in which, the 1st accused has given out false serial numbers and fictitious amounts, not actually paid to the parties that day, coupled with the fact that stipend adjusted towards deposits or advances, have been shown as paid out of the treasury, and the fact that the 1st accused has taken into account all the above items as being valid and true payments in his daily abstracts, prove in a convincing manner that he was directly concerned in the fraud, committed in the hall. His complicity in the fraud committed at the counter becomes transparent, when we once reflect for a while, that his daily abstracts, invariably contain payments which are far in excess of the actual payments made, as per the acquittances in the Baraward. It is preposterous to suppose that Rama - the 1st accused was not aware of the fraud that was going on in the hall and at the counter and I believe, it is unnecessary to dilate any

further upon his complicity in the crime.

5. I have dealt at considerable length and I have placed for the court's consideration, several facts and circumstances, to prove beyond a shadow od doubt, that all the three accused have acted in concert, of course with the cooperation of some others in the Palace office. I believe there is no useful purpose gained in reiterating the same points now. Suffice it for my present purpose to submit that the conspiracy being thus established, we shall now proceed to examine how far the charges under $\frac{409}{109}$ and 477_a are proved against the 1st accused, so as to enable us to arrive at the finding that he is guilty of the offences charged.

6. The defalcation on 2-4-'27 is for Rs 1,407-12-0, consisting of Rs 903-4-0 at the counter and Rs 477-8-0 in the hall. There is a very noticeable incident in this day's transaction. The several lists of Subbanna, that have been filed are all shown to be in his handwriting from start to finish. But we find in the list of 2-4-'27, the 1st accused presumeably takes advantage of the temporary absence of the 2nd accused, by taking up the list of Subbanna, that had been prepared by Subbanna in respect of the majority of payments made in the hall that day, and begins tonote 15 items of payments. In the midst of the items, he surreptitiously makes a false entry evidencing an alleged payment of Rs 436/ in respect of serial number 54. This entry is patently false, forh he himself has at the time of the enfacement order shown this item of Rs 436/- as having been adjusted towards advance in addition to his having made a like endoresement or entry in the Baraward for the month. Further the receipt P_{27} produced by the messenger Krishnasastry, for and on behalf of Lakshammanni Avaroo widow of the late Dalvoy Devaraj Urs, in unmistakable terms demands payment of only Rs 415-9-0 and authorizes adjustment of the sum of Rs 436 towards advances. This receipt is received by the 1st accused, preserved by him, and on this authority he causes payment to be made at the early stages of the preparation of the list of Subbanna, of only Rs 415-9-0 to the said Krishnasastry and obtains

his signature in the Baraward. Under the above circumstances, it is incredible to suppose that any payment of Rs 436/- could at all have been made in the hall, forthe simple reason, that there was no individual to receive it. Further, his culpability becomes all the more clear by his subsequent conduct, in as much, as he himself prepares the monthly statement P_{28} of advances and deposits received during the month and forwards it to the accounts section under his initials, in which this item of Rs 436/- is specifically noteda as having been recovered towards advances $P_{28(a)}$. Regarding the sum of Rs 41-8-0 shown as against serial number 61, the amount could certainly noth have been paid to any individual, as he himself in his own hands, makes payment to the concerned stipendiary on the 7th of them month and not on the 2nd, as per the list of payments. Thus he was cognizant of the fraud committed in the hall. But this fraud was only a part ~~of~~ and parcel of the fraud ~~the fraud~~ committed on the day, At the counter, As stated above, a sum of Rs 930-4-0 was defalcated. For he allows a sum of Rs 1,095-6-0 to be added on to the list of Subbanna, all the while being conscious of the fact that the entry of Rs 1,095-6-0 was false as he had caused payments to be made at the counter, only to the extent of Rs 165-2-0, to three individuals, after securing the signatures of two out of the three and noting in his own hand, in respect of stipends paid to the 3rd accused, that they were paid on seperate receipts.

Thus it becomes clear that he abetted the offence of criminal breach of trust, an offence punishable under section 408 I.PCC I.P.C., committed by the 3rd accused, when the 3rd accused with a dishonest and fraudulent intent entered in his cash book, a consolidated sum of Rs 9,668-7-0, as representing payments of Ursu stipends in the hall and at the counter, excluding the payment of Rs 125-14-0 to Mr. A. Chamappaji Urs. Further, it is clear that the commission of the offence of criminal breach of trust by the 3rd accused, could not have been accomplished, but for the abetment of the 1st accused. So the 1st accused is clearly guilty of the first head of charge, viz, abetment of criminal breach of trust,

by the 3rd accused. The second head of charge is for the substantive offence of falsification of accounts. The daily abstract for the day is written by the 1st accused and initialled by him. In this abstract we find the 1st accused gives the classification of the amounts disbursed, under several heads, viz, Rs 6,910-11-0 as having been paid to Ursus, towards current claims and Rs 74/- towards arrears, Rs 2.621-15-0 towards current claims and Rs 187-11-0 towards arrears to Kumars. He there after adds up the current claims and arrears paid to the Ursus and Kumars and arrives at the grand total payment for the day. Facts being as above noted, it does not require any elaborate argument thatt the abstract is absolutely false and is in excess of the actual payments made as per the acquittances in the Baraward. Further. that he must have scrutinized the individual payments in the Baraward, before he could classify the payments into Ursus and Kumars and into current claims and arrears, becomes more than probable. After having done so, it is impossible to assume that he unwittingly or accidently noted inflated figures in the abstract. Hence the irresistable conclusion, is thatt in preparing the daily abstract he had in view the nefarious object to further the fraud of the 3rd accused, who was his chief ammomplice and fors so doing falsified with a dishonest and fraudulent intent the daily abstract,which is an offence under section 477_A I.P.C. The 1st accused has had atleast the good grace, unlike his accomplices,accused 2 and 3, to plead guilty to this charge.

2nd accused - Subbanna 's complicity.

Next let us turn our attention to consider, how the evidence adduced on behalf of the prosecution,bring home the guilt against the 2nd accused. The 2nd accused, has been charged for abetment of criminal breach of trust by the 3rd, and for falsification of the abstract $P_{19(a)}$. The undernoted facts merit consideration while dealing with the criminality of this accused.

1. The 2nd accused was the senior Sherisdedar in the Treasury. He used to act for the Treasurer, during his temporary absence.

He was being specially deputed by the disbursing officer, viz. the Treasurer, to supervise the payments in the hall.

2. Ursu stipendiaries, had to be paid by the treasury. It was imperative duty of those entrusted with the disbursing of stipends to see that each stipendiary that was paid his stipend, be it in the hall or at the counter, was the proppr stipendiary or his agent, that appeared and arrixed his signatures to the acquittance in the Baraward, before payment was made.

3. It was for this very purpose that the 2nd accused used to be sent as the deputy of the Treasurer to attend to payments made in the hall and he was further required to prepare contemporaneous lists of payments made in the hall.

4. The fact that he used to take note of payments made at the counter and added the same to the payments made in the hall, proved in a noticeable manner, the consciousness and the acceptance of this obligation to scrutinize the payments made at the counter.

5. This circumstance coupled with the admitted fact, that he was affixing his initials to the day's abstract, is a convincing proof of his reponsibility to vouch for the correctness of the day's disbursements.

6. Furthermore, we find that the 2nd accused, noted the several heads of disbursements and even went the length of classifying the disbursements, under the heads of Ursus and Kumars and detailed the amounts paid towards current claims and arrears, vide Exhibits P_5, P_{51}, P_{54}, P_{58}, P_{61}, P_{64}, and P_{68} the lists prepared by him. This he could only have done, after scrutinizing the several entries in the Baraward, and after taking note of the individual payments. When once, he looked into the entries of the Baraward, the fraud alleged by this accused as having been practised by the 1st accused, would certainly have come to his knowledge

7. The 2nd accused was also as borne out by his own entries in his lists Exhibits P_{54}(on 3-11-'25) , P_{51}(4-9-'25), P_{61}(4-8-'24) and P_{70}(on 2-6-'25), has noted the sums brought from the counter for Ursu disbursements in the hall (Rs 8,050),856-4-0, 8,620/- and

8.250/-) and deducted the amount disbursed in the hall and thereafter taken steps to compare his list with the Assistant Shroff's list and with the cash balance on hand.

8. The above circumstances found in the very lists prepared by him clearly prove, beyond a shadow of doubt that he realized his responsibility, in regard to the payments made in the hall and at the counter and also shows that he was conscious of his responsibility to account for the cash undisbursed, independently of the responsibility of the Assistant Shroff.

9. If as the 2nd accused contends in his written statement given before court, that he had no manner of concern or responsibility in seeing to the proper disbursement of Ursu stipends, that he was not responsible for the cash brought to the hall for disbursement, there is no explanation forth coming asto why he should have taken the bother to prepare the lists and as to why he should have gone further to compare his list with the Assistant Shroff's and examine the cash balance and asto why he should have taken into account in his list the payment made at the counter.

10. The 2nd accused further contends that he had no manner of responsibility to see to the correctness of the daily abstract. If it were so, there was absolutely no reason as to why he should have classified the several heads of payments in his lists and as to why he should have unerringly affixed his initials to the daily abstract. In the matter of affixing his initials to the daily abstract, the 2nd accused offers a ludicrous explanation. The explanation offered by him is that his initial to the daily abstract was only intended to vouch for the correctness of the totals in the abstract, and not to the correctness or accuracy of the details that made up the total. The statement is so patently absurd that I do not feel called upon to offer at length my comments thereon. A total is only arrived at, after details are taken into account. When one admits his responsibility for the correctness of the total his responsibility for the accuracy of the details that make up the total, naturally follows.

11. Further in his own petition addressed to the Huzur Secretary on 31-7-227. the 2nd accused chooses to observe that the Treasury was not acting in strict compliance with procedure, in having made payments at the counter. relying upon the assurance of Ramia - the 1st accused. If so, where was there the justification for this accused to place implicit reliance in Ramia and to prepare the list and sign the abstract as per the behest of Ramia. In short, the statement of the 2nd accused is in each and every stage so self contradictory, that it does not merit more consideration.

12- So it is now my purpose to deal with facts that prove his criminality and his conspiracy with the other accused, in the commission of the fraud which is the subject matter of the present charge.

13. That the 2nd accused had entered into a conspiracy with accused 1 and 3 and that he was a party to the defalcation, is made evident by the following circumstances:-

(a) There are on record the lists prepared by him from December 1922 up to 2-4-'27. In all the lists prepared by him, we find payments to the 3rd accused and Venkataraya, by a curious coincidence, occupying the last place in the lists up to 1926 February. It is proved by the evidence of Chengia Shetty, Ramaswamy Shetty and Venkataraya that the accounting of the above payments, used only to be taken for consideration, after the day's disbursements were over and after the stipendiaries had left the hall. It merits notice that in these payments we invariably find fictitious payments being intermixed with genuine payments due to the above two individuals - Vide Exhibits P_{49}, P_{51}, P_{54}, P_{56}, P_{58}, P_{61} P_{64}, P_{66}, P_{68}, and P_{70} extending from 4-12-'22 to 3-2-'26. There is absolutely no reason or explanation forth coming as to why, this treatment was accorded to the 3rd accused and Venkataraya.

(b) Of course, there is a reason or a plausible explanation that might with justification be advanced by the 2nd accused, to the effect, the these two persons being officials of the Palace office, could well wait for their payments. without inconvenience.

But this explanation is by no manner of means, satisfactory when viewed with the circumstance that in these payments we find fraud being committed as a rule. Thus the more rational view is that the trio in the hall had their own purpose to serve by this fraudulent course of conduct, without exciting the suspicion of any of the persons that may chance to be present, during their fraudulent operations.

(c) It might with some show of force be urged on behalf of the 2nd accused, that he was mechanically noting down the numbers and amounts as given out by Ramia. This contention is frivolous and does not bear scrutiny or even a passing consideration. It is admitted on all hands, that payment is made to a stipendiary at least during the last stages of disbursement, only after he affixes his signature to the Baraward. It is proved by positive evidence and by clear reference to the acquittance in the Baraward that the stipendiaries representing the bogus payments and serial numbers, were sometimes not paid at all that month, and even if paid, were certainly not paid that day and in very many cases, amounts such as Rs 250/- and Rs 350/-, were noted in the lists as being payable to certain serial numbers, whose stipends were hardly above two digits. In some instances, we find the spurious payments being repeated and smuggled between the payments of the 3rd accused and Venkataraya. Above all, where was there the individual to receive these fictitious payments ? Even if it were a case of false personation, the person that personated could only be paid after he forged the name of the real stipendiary. How comes it then that the acquittance column is allowed to remain blank or how can a double payment be made without a double signature. The position taken by the 2nd accused is so patently untenable, that further argument is unnecessary.

(d) Further, we find in the list of Subbanna, a seperate total being mentioned in a corner of the lists, viz, in Exhibits P_{54}, P_{56}, P_{61}, P_{64}, and P_{66}. These totals, curiously represent the fictitious and valid payments made to the 3rd accused and Venkataraya. It has been proved by calculation that the totals

signify the above referred payments. If it were not the consequence of a preconcerted action, on the part of the persons concerned in the conspiracy to defraud, to have a data to know the amount defalcated, for futher adjustment, there is no reason as to why these totals should have been noted in the lists. Above all the incident of 4-3-'24 P_{22} with the descriptive note "Veg" against Rs 258-8-0 has its own significance, as explained above.

For the foregoing reasons, the charges framed against him, viz, for abetment of criminal breach of trust - an offence punishable under section $\frac{408}{109}$ I. P. C. and for having falsified or having abetted the falsification of the daily abstract of 2-4-'27 Exhibit 19_a are proved in a satisfactory and convincing manner.

Re:- The guilt of the 3rd accused

Lastly we have only to deal with the complicity in the crime of the 3rd accused. While so doing, the undernoted facts merit consideration.

1. The 3rd accused held the responsible part of the Head Shroffi in the Palace Treasury.

2. The 3rd accused was practically the head of the cash section, and had a large amount of money under his personal custody.

3. The 3rd accused was bound as per rules of accountancy, proceedure and business transactions to write the cash book P_{21} and note therein a true and faithful account of the debits and receipts of the day's transactions.

4. The 3rd accused had his own assistants, of his choice and as such, enjoyed a peculiarly advantageous position.

5. The duty and obligation to scrutinize all payments made at the counter and also to see that not a single pie went out of the Treasury, before satisfying himself that the said payment was proper and regular and was borne out by proper vouchers, lay heavily on the 3rd accused. It is idle to contend that the 3rd accused made payments, depending upon the assurance of the 1st accused, or of anybody else. The 1st accused's real position, as

stated by Mr. S.P. Rajagopalachar, in the disbursements of Ursu stipends was purely intended to identify the stipendiaries, whenever such a contingency arose, and that the 1st accused, had no other function to perform in the said disbursements. In short, the position of the 1st accused was closely analogous to the part that is played by an identifying witness before a Sub-Registrar, at the time of the registration of a document. If the accused usurped to himself more authority than he could rationally and legitimately exercise, during disbursements of Ursu stipends, the fault lay more in the officials of the Treasury, who allowed the interlopper to assume, unwarranted authority than in Ramia, for the sole responsibility for making valid and true payments and maintaining correct records and accounts there for, lay primarily and solely on the disbursing officer, and upon his subordinates, who were specially deputed by the officer, to attend to such disbursements.

Bearing in mind the above observations, let us now proceed to the facts which prove to the hilt the criminality of the 3rd accused.

1. As per the recorded evidence, defalcations have taken a place from 1922 till May 1927, though the Auditor refers to defalcations to a period anterior thereto. Could it be presumed, with any show of reason, that a shrewd business man of the type of the 3rd accused, was an innocent victim of the several items of fraud, committed day after day, month after month, and year after year ? Is it to be accepted that the 3rd accused was sheepishly accepting the assurannes and the figures given by Ramia or Puttu Row and adopting them in his cash book, without exercising any manner of scrutiny, to test their correctness or accuracy? The position taken by the 3rd accused, is so patently absurd and unconvincing, that no further time need be spent, to establish the hollowness and falsity of the 3rd accused's contention.

2. It has been the object of the prosecution to establish in the first instance that the defalcations were the consequence of

a conspiracy, or of a concerted action on the part of all the three accused. The said persons have played their own part ~~of all~~ for the the accomplishment of their dishonest and fraudulent intent, to embezzle money from time to time, from the Palacee Treasury, of course to enrich themselves, at the expense of and to the prejudice of their employer. The factum of conspiracy, is I am sure, proved in a very convincing manner, by a reference to the several exhibits, thatM have been filed in the case. Regarding their evidentiary value adequate observations have already been submitted, in their proper places. While dealing with the question of conspiracy and consequent fraud, it need hardly be submitted that psychological facts cannot be proved by the direct testimony of witnesses, they can only be ascertained either by confession or by presumptive inference from physical facts. The state of mind can only be inferred from its outward manifestations; these may be either words or deeds. Fraud by its very nature, is secret in its movements , and if in the investigation of questions of fraud direct proof is insisted upon, the ends of justice would bo defeated. So in the generality of cases, circumstantial evidence is our only resource in dealing with questions of fraud and if this evidence is sufficient to overcome the natural presumption of honesty and fairdealing and to satisfy a reasonable mind of the existence of fraud by raising a counter presumtion, there is no reason whatever, why we should not act aupon it. Per J. Mitter Mothoora Panday VS Ram Ruchya 11 W.R. 482 to 484, Silence also is evidence of fraud. 32 Cal. 357 Chandra VS Sreenath.

3. Now we shall interest ourselves in seeing waht are the circumstances and facts that point to the dishonest and fraudulent intent of this accused.

(a) This accused, as per the testimony of Chengia Shetty, Ramaswamy Shetty, Venkataraya and Puttu Row, was quietly taking large sums of money, than was his due, when the same was being sent to him from the trio in the hall. If he were an honest man, he would not have received a single pie in excess of what

was legitimately due to him.

(b) This accused has been shown to have charged off in his cash book sums in excess of what were actually paid by him at the counter and in support of this statement, the several entries in his own cash book and the entries in the paraward, and the entries in the lists of Subbanna, bear out, in a very remarkable manner, the truth of the prosecution case and lays unreadable the hollowness and falsity of the defence.

(c) The noticeable alterations and erasures in his cash book regarding the entries of 5-3-'26, 3-9-'26 and 8-3-'27 afford us an oppurtunity to pry into the inner working of the guilty mind of the 3rd accused. When placed alongside with the other attendant circumstances, the innocence of the 3rd acused becomes a matter of impossibility.

(d) The absence of any explanation forthcoming regarding the blank space left against the entry Rajabandhus on 8-3-1927 and the defferred filling up of the blank space on 7-7-'25, prove in a satisfactory manner, the fraudulent intent of the 3rd accused, and his furhher intent to achieve hisn nefarious object, after consultation with his chief accomplices Ramia - the 1st accused.

(e) The interesting circumstance that in an overwhelming majority of frauds committed, defalcations of the day are closely mixed up with his own payments, gives rise to the irresistable inference that the fraud committed was specially within his knowledge

(f) The issue of 100 rupee currency notes for the alleged purpose of disbursing Ursu stipends, at a belated hour of the day, when the day's transactions had come to a close, have their own significance and I deem it unnecessary, at this stage to advert to them in detail. Enough for my present purpose to refer to the entries in the note registers marked as Exhibits $P_{22(b)}$ (of3-9-26) $P_{22(c)}$ (of 4-10-'26); $P_{30(d)}$ (of 3-11-'26); and $P_{30(c)}$(of 2-4-'27). The further fact that the 3rd accused for reasons not difficult to see, committed remisness of duty in noth having noted the re-

receipt of 100 rupee notes on 5-1-'27 and in his having issued 60 notes on 2-4-'27 for Ursu stipends, without noting the serial numbers, and in his having made a departure from the normal proceedure by keeping in reserve the notes in stock and in his having issued later receipts, is also a circumstance, that has its own significance as submitted already. On 5-2-'25, 7-8-'25, 7-7-'26, 9-12-'26 and 4-4-'27 the 3rd accused takes the cash book from his assistants, viz, Gopalakrishnasetty on the 1st date and from Chengiashetty on all the other dates, solely for the purpose of noting excess payments towards Ursu stipends.

In fine, let me deal with the incidents of 2-4-'27 - the subject matter of the charges. On this day, it is seen that a sum of Rs 930-4-0 is defalcated at the counter and a sum of Rs 477-8-0 in the hall, resulting in an aggregate defalcation of Rs 1,407-12-0. That the 3rd accused was all the while conscious nay, an active participator in the defalcations committed in the hall is proved by the evidence of conspiracy adduced in the case and also the fact that the 3rd accused, inspite of the special oppurtunity that was afforded to him, to scrutinize and verify payments in the hall, when his assistant placed in his hands, the list along with the undisbursed amount coupled with his relience thereafter, proves beyond all reasonable doubt, his league with the defalcators in the hall. His subsequen act in adopting the inflated sums as having been actually disbursed both in the hall and at the counter, and in his having made a like entry in his cash book completes the offence of Criminal Breach of Trust. Hence, my submission is, that the third accused is clearly guilty of the offence charged, viz, of Criminal Breach of Trust by a servant, an offence punishable under section 408 I.P.C.

Public Prosecutor's reply on 5-2-'28 to the arguments advanced by the counsels ofor A_2 and A_3

I propose to deal with the questions of Law raised by Mr. Narasimhachar. His contention is that the lists of Subbanna, the Barawards of Ursu stipends, solely prepared by Ramia, are inadmissible in evidence, as they are not relevant to prove the fact in issue. That there is no section in the Evidence Act, which might be accepted, as being applicable, to render them relevant and admissible. His first ground of attack is against the admissibility of the lists.

Mr.Narasimhachar contends that the lists cannot be deemed to come within the purview of either section 7 or 8 or any other section dealing with the Relevancy of facts. In section 3 of the Evidence Act we find that one fact is said to be releavant to another, when the one is connected with the other, in any of the ways referred to in the provisions of this Act, relating to the relevancy of facts. Thus it is we find that all admissible evidence is relevant; but all relevant evidence is not admissible. It must be clearly borne in mind that the value of the evidence cannot affect its admissibility. All questions as to the admissibility of evidence are for the Judge. When in doubt, admissibility is the rule and exclusion, the exception.

I need hardly submit that the object of a trial in every case, is to ascertain the truth in respect of the charge made. The court should therefore be in a position to estimate at its true worth, the evidence given by each witness, and nothing that is calculated to assist it in so doing, ought to be excluded, unless on grounds of public policy, the law expressly requires its exclusion.

We shall now examine if the list and Barawards are admissible or not. Section 7 runs thus :- "Facts which are the occasion, cause or effect immediate or otherwise, of relevant facts, or facts in issue or which constitute the state of things under which they happened or which afforded an oppurtunity for their occurence or transaction, are relevant. This section is based upon the principle that when one wants to decide whether a fact occurred or not, it is the

first natural step to ascertain the existence or otherwise of the circumstances, detailed in this section. In order to appreciate a fact properly, it is necessary to know the state of things under which it occurred.

Now the fact in issue is that A_1, A_2 and A_3 having conspired in pursuance of their common design to carry on a systematic series of frauds, did defalcate an aggregate sum of Rs 1330 on 3-9-26, at the counter, while engaged in the act of disbursing Ursu stipends to the several stipendiaries that day. And that on 2-4-'27 a sum of Rs Rs 1407-12-0 was defalcated (Rs 930-4-0 at the counter and Rs 477-8-0 in the hall) while they were engaged in aforesaid disbursement.

Apart from the factum of actual defalcation, are not the undernoted facts material or necessary to determine or ascertain, viz, how, where, under what circumstances, and by whom the complained of defalcations could have taken place. If once you admit that the above are essential factors to be known, before you are asked to decide about the fact of defalcation, then, I submit the lists and Barawards which are kept in regular course of business and as such become clearly admissible under section 34 Indian Evidence Act. These explain the circumstances under which the defalcation took place. Further, the procedure followed during disbursements, be they in the hall or at the counter, is clearly admissible, when dealing with defalcations during such disbursements. The lists which are prepared to evidence the fact of disbursement and the signatures in the Baraward which evidence payment of stipends, are indispensible factors and are clearly relevant matters closely connected with disbursements. Is it the contention of the opposite side, that beyond the bare statement that certain sums of money have been defalcated from the Palace Treasury, no other evidence, either oral or documentary, is to be admitted ? The contention is clearly unreasonable and untenable, and I do not feel called upon to dilate upon this.

The next contention is that even if these list and Barawards be held to be admissible, there must be legal proof adduced on behalf of

the prosecution before these could be accepted as evidence proved in the case. The authors of these documents, viz, A_1, and A_2 are accused in the case and beyond a general identification of their handwriting by persons conversant with their hand writing, there is no other proof. So the documents are not proved. I am at a loss to understand the cogency of the above reasoning. As A_1 and A_2 are under tria prisoners and as they are incapable of giving evidence, these lists and Barawards and their contents can only be proved under section 47 of Evidence Act in the way in which the prosecution has done, by examining such persons who were present during the preparation of these documents and by persons who could vouch for the fact that A_1 and A_2 were the authors thereof. Further A_1 and A_2 do not disclaim their authorship of these documents. It is for the court to decide whether under the above circumstances, these documents are proved or not. The contents of these documents are proved by the Auditor and his evidence is acceptable under section 65 clause g., of Evidence Act

The third contention of the opposite side is that if these documents are accepted as proved, they have no evidentiary value, they are unsafe to be relied upon, they were not kept in the regular course of business, the authors of these are disrespectable characters, and in short these documents are not worth the paper in which they are written. It is indeed strange that the opposite side should have advanced the above argument, after such a detailed argument on this matter by me. My argument already submitted is a sufficient answer to the above contentions, which in my humble opinion, do not merit any serious consideration.

Now we come to the question of the admissibility of similar acts. The contention of the opposite side is that when the guilt IN ISSUE or innocence of a party depends upon actual facts and when a fact in issue is capable of being proved by other facts and does not depend upon upon the intention of the accused, then evidence regarding similiar acts are inadmissible. This is indeed a correct proposition of Law. But the contention of the prosecution is that the fraud in question is only one of a series of systematic frauds, in which the accused

were concerned, as co-conspirators and that the defence of each of the accused specially of A_2 and A_3 was one amounting to bonafides or want of guilty knowledge and in truth a bonafide mistake of fact. In or- to negative this contention of the accused evidence of similar acts of fraud has to be let in. I have more often than once said that the similar acts referred to in the prosecution evidence are not intended to prove the factum of defalcation but only to prove that the accused in the transactions complained of have acted fraudulently and dishonestly. Proof of actual defalcation is proved by the evidence of the Auditor, Chengia Shetty and C.I.D.Inspector. The evidence of the Auditor is entitled to special credence on this matter as per section 65 clause g.

Am I to understand that the objection of Mr.Narasimhachar is that if you want to prove the fact in issue, why indent upon similar acts, which are at best circumstantial evidence. With all due respect to the talents of Mr.Narasimhachar, I am constrained to observe that he has allowed his enthusiasm to outwiegh his judgment. That the contention of Mr.Narasimhachar is untenable is made apparent by a perusal of the statements of A_2 and A_3 before Mr.M.Ramarao, and by a reference to the incidents of 3-9-26 and 3-4-27.

A_3 says that he knows nothing of hall payments and A_2 says he knowsx nothing of counter payments. It is to prove the existence of a conspiracy and to show that irrespective of payments either in the hall or at the counter, each one of the accused is responsible for the acts of the other, that evidence/of similar acts is tendered to disprove the theory of the absence of either a bonafide mistake or innocent condition of the mind. It is a well established principle thata man is primafacie responsible for his own acts and not for theose of others. But the prosecution alleges conspiracy and has proved that the defalcations are the consequences of a conjoint action of all the accused irrespective of the place of defalcation. The existence of a conspiracy is often times not possible to be established by proof which actually brings the parties together but may be shown to exist by circumstantial evidence,- such as entries made by them and othe documents

in their possession relative to the main design. Now if we carefully scrutinize the statement of A_3 it becomes clear that all the persons concerned in the fraud would meet at the counter on the evening of every first payment day and after such consultation only A_3 would note the amount in his cash book. The subsequent day's incidents which expose the interesting feature of two false totals agreeing, makes manifest the conjoint action of either A_3 and A_1 or of A_3 and Puttu Row.

In the matter of adducing evidence in support of conspiracy, there can be no hard and fast rule as each case depends upon its own peculiar circumstances. Criminality lies in the concerted action to do an unlawful act. 28 cal 797.

The next point urged is that

(1) the prosecution whould fail as there is no satisfactory proof of defalcation. Is there any evidence to connect A_3 with the lists or Barawards, A_3 is paid as per acquittance only Rs 50/- on 3-2-26 & yet 150 is noted against the serial number in the listof 3-2-26 and on 4-9-25 A_3 has signed for only Rs 90/- though 190/- is noted in the list. Would A_3 endanger his own position by allowing the list to contain these inflated figures, if the list was placed in his hands ?

(2) defalcations at the counter and at the hall cannot be determined if only certain lists are scrutinized.

(3) the system is defective and objectionable, and this accounts for A_3's influence.

Let me in one word assert that the observations made by my learned friend on the opposite side regarding the alleged defects in the system, is more imaginary than real. The system is perfectly sound and correct. But the persons who were entrusted with the several duties cast on them, by force of their official position, did not discharge their respective duties, in a loyal and honest manner. No useful purpose is served in condemning the system and in trying to seek shelter, under an imaginary defect. I should have been inclined to deal seriatum with the other objections advanced and to submit my reply to each of one of them but as I have been required by court to see my way to finish my argument before 2-30 P.M., I am constrained to abridge

my argument and devote the rest of the time before me to show the shallowness of the contention of the opposite side when it urges that there is nothing to differenciate the hall payments from counter payments To refute the above contention, let me examine the entries in the lists of 4-12-22,3-4-24,4-9-25,4-8-26 and 3-9-26 and compare the last two totals in the list with the entries of the shroff's book on the said dates. This examination proves in a most convincing manner that the total of counter payments noted in the cash book is found in the lists as the last total added on to the total payments made in the hall. Viceversa, the hall payments are noted in the cash book, as the last entry. This course of action is consistently and unerringly adopted by A_2 in the lists and it is idle to contend that in the face of such unmistakable evidence, there is no data to distinguish hall payments from counter payments.

Lump sum additions without seperate corresponding entries in the cash book.

List of Subbanna.		Cash book.	Notes Register.
(1) 3-11-1925.			
Itemwar total.	Rs 7861-14-0	Rs 8053-3-0	Amount defalcated is 918. A_3 has noted 2 notes to L.Narayanasetty.
Lumpsum.	Rs 191- 4-0		
	Rs 8053- 3-0		
(2) 4-5-1926.			
Itemwar total.	Rs7715- 2-0	Rs 8936-14-0	
	Rs 735-12-0 -- This includes payment of 88-12-0 to A_3 plus 647.		
	486- 0-0 -- This is 106 to Venkataraya plus 380.		
	Rs 8936-14-0		
(3) 4-10-26.			
Itemwar total.	Rs 8152-10-0	Rs 9498-14-0	Amount included, excess in lumpsum 1100
Lumpsum.	Rs1274- 4-0 -- 174-4-0 to A_3 plus 1100		A_3 has noted 10 notes for [illegible]
	Rs 9426-14-0 & payment 71-2-0		6 notes traced to him
(4) 3-11-26.			
Itemwar total.	Rs 8297-10-0	Rs 88- 0-0 paid to Siddarajurs.	Excess in lump sum 1141 plus 95-8-0 A_3's payments.
Lumpsum	Rs 1333- 8-0	Rs 9543- 2-0	
	Rs 9631- 2-0	Rs 9631-2-0	

Lists of Subbanna cash book. Notes Register.

(5) 5-1-27

Itemwar total.	Rs 7591-10-0		491-6-0
			8799-2-0
Lumpsum.	Rs 1698-14-0	-- 491-6-0 plus	------
		1207-8-0	Rs 9290-8-0

	Rs 9290- 8-0		

(6) 2-4-1927.

Itemwar total	Rs 8698-15-0		Rs 125-14-0
Lumpsum	Rs 1095- 6-0		Rs 9668- 7-0

	Rs 9794- 5-0		

Lists in which no lumpsums are added.

On 3-1-23, 3-3-26, 3-9-23 there was no payment at the counter and so no lumpsum addition to the totals payments in the hall.

General aspect of the Prosecution theory regarding lumpsum addition.

1. Payment at the hall always are numbered. ~~Regarding~~ payments at the counter, though added to the hall payments, are not numbered.

2. There is not a single instance in which there has been a double payment both at the hall and at the counter (evidenced by a corresponding entry in the cash book).

3. Though A_3 might surreptitiously omit to note payments made at the counter, yet A_4 faithfully takes note of it and adds to his list.

4. By the consistent practice and by the evidence of prosecution witnesses, it is proved that the lump sum additions represent counter payments. This is also admitted by all the accused.

5. The incident of 4-10-26 in which Chengia Shetty notes the consolidated entry of 9498 including counter payment of Rs 71-2-0, proves

in a remarkable xxxxxxx way that the entries in the cash book and in the abstract were being written simultaneously xxith xxx xxxxtxxx xx at the counter, after consultation with one another.

Vide entries in the cash book on 3-12-26 and 3-2-27 for which dates there are no lists.

3-12-26.

Cash book.

1207-12-0 -- 107-12-0 is to A_3
Defalcation is 1100.
7598- 3-0

N.B. Significantly the total of these two appears as a distinct entry in the cash book.

3-2-27.

Cash book entries Rs 10- 0-0

Rs 7849- 1-0 But below this item are noted by A_3 Rs 6542- 5-0

Rs 1306-12-0 --- Out of this A_3 is paid 106-12-0.

---------- Defalcated Rs 1200-0-0
Rs 7849- 1-0

Facts being as above detailed, there is no substance in the contention that counter payments cannot be differentiated from hall payments.

There remains for me only to reiterate, what I have already said regarding the complicity of the three accused. There may perhaps be something that may be urged as an extenuating circumstance that A_1 fell into bad company and cultivated bad habits and in order to meet the extra drain on his purse, took to defalcation. On behalf of A_2, it might be urged that he is old and sickly and that he had admittedly no hand in defalcations on subsequent days. But so far as A_3 is concerned, I urge that A_3 has no excuse whatsoever. Being a man above want, being admittedly

not saddled with any other family but a wife, his complicity in the crime is the most reprehensible. It is he that has guided the fraud from its very inception and it is he that has controlled it from start to finish. In my humble opinion A_z merits an exemplary and deterrent punishment.

M. Ivanov Eugenia
Robert Bogaard